

**HOME RULE CHARTER
OF THE
CITY OF NEW ORLEANS**



EFFECTIVE MAY 1, 1954
**(AS AMENDED THROUGH
OCTOBER 2, 2010)**

CITY OF NEW ORLEANS

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MAYOR**

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PREAMBLE

We, the people of the City of New Orleans and Parish of Orleans, trusting in God and grateful for the freedoms we enjoy, do ordain, establish, approve, and adopt this Home Rule Charter through which the City of New Orleans intends to possess and exercise the broadest rights, powers, privileges and authority of self-government permitted under the Constitution and Laws of the State, pursuant to Section 22 of Article XIV of the Constitution of the State of Louisiana of 1921, as amended by Act 551 of 1950 and as continued by all appropriate Sections of the Constitution of the State of Louisiana of 1974, particularly but not exclusively Sections 4 and 6 of Article VI.

ARTICLE I
INCORPORATION AND FORM OF GOVERNMENT

Section 1-101. Incorporation

Section 1-102. Form of Government

Section 1-103. Boundaries of the City

ARTICLE I

INCORPORATION AND FORM OF GOVERNMENT

Section 1-101. Incorporation.

The inhabitants of the City of New Orleans, within the boundaries now established by law or as may hereafter be established, shall be and continue a body politic and corporate by the name of "City of New Orleans," hereinafter in this Charter called "City." By that name it shall have perpetual succession and enjoy all of the powers hereinafter recited.

Section 1-102. Form of Government.

The government provided by this Charter shall be known as the Mayor-Council form of government. The Mayor shall be aided by a Chief Administrative Officer who, in the performance of the duties of office, shall be responsible to the Mayor.

Section 1-103. Boundaries of the City.

The boundaries of the City shall be as follows: Commencing at a point in the middle of the Mississippi River on the projected division line between the Parish of Orleans and the Parish of Jefferson, in the vicinity of Carrollton, and thence along the said projected line to the left bank of said river, and thence along the division line between the Parish of Orleans and the Parish of Jefferson to the south shore of Lake Pontchartrain, and thence to a point in the middle of Lake Pontchartrain on the projected said Parish division line, and thence along the middle of Lake Pontchartrain to the middle of the Rigolets, and thence along the middle of the Rigolets to Lake Borgne, and thence along the main shore of Lake Borgne, including all islands within one marine league distance thereof, to the middle of Fisherman's Canal, and thence along the middle of Fisherman's Canal to the line of the south side of Florida Walk, and thence along the said line of Florida Walk to the lower line of the United States Barracks, and thence along the said line of the United States Barracks to the left bank of the Mississippi River, and thence to a point in the middle of the Mississippi River on the projected line of the said United States Barracks, and thence along the middle of the Mississippi River to the point of commencement; and commencing at a point in the middle of the Mississippi River, abreast of a point on the right bank of the said river established by the Board of State Engineers, opposite Ptolemy Street, and thence to said point, and thence running as follows, viz: South, 42 deg. 30 min.; east, 4 miles and about 1,080 feet and south, 3 deg. 10 min.; west about 620 feet. Thence along the

back line of properties south, 57 deg. east 2,143 feet 4½ in.; north 2 deg. 45 min.; east 1,910 feet 7 in.; south 53 deg. 30 min.; east 5,162 feet 2 in.; north 6 deg. 15 min.; east 4,932 feet 7 in. to township line, 1 mile, 138 feet 9 ¾ in.; south 76 deg. east 3,111 feet 4½ in. to township line, 445 feet 10 in.; south 72 deg. east 947 feet 9½ in.; south 65 deg. 30 min.; east 955 feet to range line 1,337 feet 8 in.; south 83 1/3 deg. east 860 feet 6 in.; north 61 deg. 7 min.; east 524 feet 7 in. to range line, 1,366 feet 6 in.; south 81 deg. 15 min.; east 2,368 feet 6 in. to range line 4,383 feet 2 in.; south 61 deg. 53 min.; east 1½ miles and about 2,770 feet 2 in. south 31 deg. 35 min.; east 1½ miles and 2,163 feet to line of Jeanne La Salles, and thence to a point in the middle of the Mississippi River on a projection of the said line, and thence along the middle of the Mississippi River to the point of commencement, and any additional area hereafter included in the Parish of Orleans, and legally incorporated by ordinance of the Council into the City of New Orleans.

ARTICLE II

POWERS

Chapter 1. Powers

Chapter 2. Bill of Rights

CHAPTER 1

POWERS

Section 2-101. Powers.

- (1) The City shall retain, to the same extent as if herein repeated, all rights, powers, privileges and authority that it has or could claim under the law of this State at the time of the adoption hereof, except as herein expressly modified.
- (2) In addition to the foregoing, the City shall have all rights, powers, privileges and authority herein conferred or herein enlarged and all rights, powers, privileges and authority whether expressed or implied that may hereafter be granted to a similar corporation by any general law of the State or that may be necessary or useful to enjoy a home rule charter.
- (3) The rights, powers, privileges and authority heretofore enjoyed, herein retained or herein claimed shall subsist, notwithstanding the repeal of any law, until any such right, power, privilege or authority be altered or taken away by amendment to this Charter in the manner provided for by the Constitution or as herein provided.
- (4) The City, in addition to the rights, powers, privileges and authority expressly conferred upon it by this Charter, shall have the right, power, privilege and authority to adopt and enforce local police, sanitary and similar regulations and to do and perform all of the acts pertaining to its local affairs, property and government which are necessary or proper in the legitimate exercise of its corporate powers and municipal functions.
- (5) No enumeration of any right, power, privilege or authority hereinafter made and no repeal of any law under which the City derives any right, power, privilege or authority shall be construed as limiting or abolishing any right, power, privilege or authority hereinabove set forth.
- (6) The rights, powers, privileges and authority of the City of New Orleans under this Charter shall be construed liberally in order to establish the broadest measure of local self-government in any and all matters not prohibited or reserved to the state by the Louisiana Constitution.

CHAPTER 2

BILL OF RIGHTS

Section 2-201. Preamble to the Bill of Rights

Section 2-202. Bill of Rights

CHAPTER 2

BILL OF RIGHTS

Section 2-201. Preamble to the Bill of Rights.

This Bill of Rights is aspirational in nature. It incorporates guiding principles from the United States Constitution as well as the Louisiana Constitution. It reflects the beliefs, convictions and goals of the citizens of New Orleans.

Section 2-202. Bill of Rights.

- (1) All persons are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another with respect.
- (2) All government, of right, originates with the people, is founded on their will along, and is instituted to protect the rights of the individual and to provide for the general welfare of the people.
- (3) The people have the right to a government responsive to their will and the right to take part in the government of the City, either directly or through freely chosen representatives.
- (4) The people have the right to lawful and peaceful assembly, to petition the government for redress of grievance, and to equal access to public services.
- (5) The people have the right to life, liberty, and security of person, the right to live free from fear or violence, and the right to safe neighborhoods conducive to the enjoyment of liberty.
- (6) No law shall deprive any person of any rights, privileges, or immunities secured by the Constitution and laws of the United States or the State of Louisiana, nor shall any law discriminate against any person because of race, color, religion, or national origin. No law shall arbitrarily and capriciously or unreasonably discriminate against a person because of birth, disability, sex, sexual orientation, gender identification, culture, language social origin, or political affiliations.

- (7) The people have the right to freedom of opinion and expression. No law shall restrain freedom of speech or freedom of the press.
- (8) The people have the right to freedom of thought, conscience, and religion. No law shall be enacted respecting an establishment of religion.
- (9) The people have the right to a government of the highest ethical standards, free from corruption, untainted by graft, and conducted in accordance with sound fiscal planning and administration.
- (10) The natural resources of the City and the healthful, scenic, historic, and aesthetic quality of the municipal environment shall be protected, conserved, and replenished insofar as possible consistent with the health, safety, and welfare of the people.
- (11) This Bill of Rights shall not create any enforceable rights, duties, obligations or causes of action under this Charter beyond those guaranteed by the Constitution of the United States or the Constitution of the State of Louisiana.

ARTICLE III

THE COUNCIL

Section 3-101. Legislative Powers

Section 3-102. Number and Terms of Councilmembers

Section 3-103. Council Districts

Section 3-104. Qualifications of Councilmembers

Section 3-105. Election of Councilmembers

Section 3-106. Salaries and Removal of Councilmembers

Section 3-107. Organization of the Council; Officers; Rules; Employees

Section 3-108. Council Meetings to be Public

Section 3-109. Applicability of Certain General Provisions

Section 3-110. Mayor May Appear Before Council

Section 3-111. Legislation by Ordinance

Section 3-112. Introduction, Consideration, and Passage of Ordinances

Section 3-113. Submission of Ordinances to the Mayor

Section 3-114. Codification of Ordinances

Section 3-115. Consideration and Adoption of the Annual Operating Budget Ordinance

Section 3-116. Budget of Revenues

Section 3-117. The Capital Program and the Capital Budget

Section 3-118. Adoption of Pay Plans

Section 3-119. Creation of General Debt

Section 3-120. Creation of Special Assessment Debt

Section 3-121. Anticipation of Revenues

Section 3-122. Official Journal

Section 3-123. Publication of Ordinances and Official Acts

Section 3-124. Investigations

Section 3-125. Removal of Unclassified Appointees

Section 3-126. Temporary Prohibitions

Section 3-127. Creation of Advisory Committees

Section 3-128. Granting of Franchises

Section 3-129. Terms

Section 3-130. Establishment of Rates

Section 3-131. Special Permits

ARTICLE III

THE COUNCIL

Section 3-101. Legislative Powers.

- (1) All legislative powers of the City shall be vested in the Council and exercised by it in the manner and subject to the limitations hereinafter set forth.
- (2) The Council shall have the right to levy any and all classes of taxes, excises, licenses, liens and fees necessary for the proper operation and maintenance of the municipality for the payment of debt, and for capital improvements that are not expressly prohibited by the Constitution provided that no specific tax or service charge affecting real property or motor vehicles shall be levied unless approved by a majority of the qualified electors voting thereon in an election held for that purpose. A specific tax or service charge affecting real property or motor vehicles is one which is imposed as a fixed sum on each article of a class without regard to its value provided, however, that the term "service charge affecting real property or motor vehicles" shall not be construed or interpreted to include or mean any charge, (including but not limited to a sanitation charge), fee, license, permit or rate imposed or levied pursuant to the regulatory authority of the City of New Orleans in the operation of the City, its departments, boards, agencies and commissions (whether attached or unattached) including, but not limited to, the Sewerage and Water Board.

Section 3-102. Number and Terms of Councilmembers.

The Council shall consist of seven members, of whom five shall be elected from districts and two from the City at large. The terms of councilmembers shall be four years beginning on the first Monday in May next following their election except that a councilmember elected to fill a vacancy shall serve only for the remainder of the unexpired term. If applicable law provides for a primary and general election for Mayor and members of the Council in the year 2005 and every fourth year thereafter, the Council shall take office beginning in the year 2006 on the third Monday in January.

Section 3-103. Council Districts.

- (1) **The City shall be divided into five Council Districts.** Each District shall serve as the basis for electing a district councilmember. The five Districts shall be those existing on January 1, 1995, except as thereafter changed in accordance with the provisions of this Charter. The Council shall maintain maps and written descriptions of the Council districts for public review and inspection and shall make copies available, through sale or otherwise, to the public.
- (2) It shall be the mandatory duty of the Council to redistrict the City by ordinance, which shall not be subject to veto by the Mayor, within six months after the official publication by the United States of the population of the City by precinct as enumerated in each decennial census. Each council district shall contain as nearly as possible the population factor obtained by dividing by five the City's population as shown by the decennial census. At the expiration of the six month period, if the Council shall have failed to redistrict the City as herein required, the responsibility for redistricting shall pass to a Redistricting Commission, consisting of the presidents or chancellors or a person designated by the president or chancellor of Dillard University, Loyola University, Southern University of New Orleans, Tulane University, the University of New Orleans and Xavier University and a designee selected by each member of the Council. Each member of the Redistricting Commission shall be an elector of and domiciled in the City of New Orleans. The City Attorney shall notify the university presidents or chancellors and the members of the Council of the need for activation of the Redistricting Commission and shall request that they make appointments to the Commission within ten days. The City Attorney shall convene the first meeting of the Commission no sooner than fourteen nor later than twenty-one days following the delivery of notice to the university presidents or chancellors and the members of the Council. A majority of the members initially appointed shall constitute a quorum for purposes of the first meeting of the Commission, at which the members there assembled shall proceed forthwith to make, by majority vote, any appointments not theretofore designated by the appointing authorities. Thereafter, a quorum shall consist of a majority of all thirteen members of the Commission. No later than forty days following the City Attorney's notice to the university presidents or chancellors and the members of the Council, the Redistricting Commission shall, by majority vote, adopt a redistricting plan. The plan shall immediately be delivered to the Clerk of Council and shall become legally effective upon its receipt by the Council Clerk. Following the expiration of the six month period, the members of the Council shall not receive any further salaries until the Redistricting Commission shall have delivered such redistricting plan to the Clerk of Council, and the Director of Finance shall not issue checks for

such salaries for said periods.

Section 3-104. Qualifications of Councilmembers.

- (1) A councilmember shall be a citizen of the United States and a qualified elector of and domiciled in the City and shall not hold any other public office or position, except that the councilmember may hold the office of Notary Public, office in the military or naval forces or a position as a public school, public college, or public university administrator, teacher, instructor, or professor. Candidates for councilmember-at-large shall have been domiciled in the City for two years immediately preceding their election. Except as provided in paragraph (2) of this Section, candidates for district councilmember shall have been domiciled in the districts from which elected for at least two years immediately preceding their election. Any councilmember who ceases to be domiciled in the district from which elected shall thereby vacate the office.
- (2) At the next regular election for members of the Council following Council redistricting, an elector may qualify as a candidate from any district created in whole or in part from a district existing prior to redistricting, if the elector was domiciled in that prior district for at least two years immediately preceding qualification. The seat of any member who changes domicile from the district represented or, if elected after redistricting, whose domicile is not within the district represented within one year after taking office shall be vacated thereby, any declaration of retention of domicile to the contrary notwithstanding.

Section 3-105. Election of Councilmembers.

- (1) At an election to be held every four years at the time of the election of the Mayor in accordance with the election laws of the state, one councilmember shall be elected from each council district and two from the City at large. Each elector may vote for one district councilmember from that elector's district, and may also vote for two councilmember-at-large.
- (2) A vacancy in the office of any councilmember shall be filled as follows:
 - (a) If the unexpired term is less than one year, the remaining members of the Council shall select by a majority vote of all of its members a citizen with the requisite qualifications to fill the vacancy for the unexpired term. Vacancies shall be filled only at a regular meeting of the Council after reasonable notice of the vacancy to all

remaining members of the Council. Should the Council fail to fill any vacancy within thirty days after its occurrence, the Mayor shall appoint a citizen with the requisite qualifications to fill the vacancy for the unexpired term. A citizen selected or appointed to fill such vacancy shall be ineligible to qualify as a candidate for that office at the next election.

- (b)
 - (i) If the unexpired term is for one year or more, the vacancy shall be filled by special election, to be called by the Council within ten days after its occurrence and to be held in accordance with the election laws of the State, at which time the electors of the City, or should the vacant office be that of a district councilmember, the electors of that district, shall elect a citizen with the requisite qualifications to fill the vacancy for the remainder of term; provided that if any special or general election is to be held in the City after sixty days and within six months after occurrence of the vacancy, then the election shall be held in conjunction with such other election.
 - (ii) During the period between the time of vacancy and the filling of such vacancy by special election, the Council, by majority vote of its entire membership, shall select a citizen with the requisite qualifications to fill the vacancy. Should the Council fail to fill any vacancy within thirty days after its occurrence, the Mayor shall appoint a citizen with the requisite qualifications to fill the vacancy during the interim period. A citizen selected or appointed to fill the vacancy shall be ineligible to qualify as a candidate for that office at the next election called to fill the vacancy.
- (3) A person who has served as a councilmember representing a Council district for more than one and one-half terms in two consecutive terms shall not be elected as a councilmember representing a Council district for the succeeding term. A person who has served as a councilmember-at-large for more than one and one-half terms in two consecutive terms shall not be elected as a councilmember-at-large for the succeeding term.

Section 3-106. Salaries and Removal of Councilmembers.

- (1) The salary of each councilmember shall be as provided by ordinance, provided that each councilmember shall receive the same salary and that no increase of salary shall be effective during the term in which said increase is voted. No change in the salaries of councilmembers made during the last six months of any term shall be valid as to any councilmember elected for a succeeding term.
- (2) Councilmembers shall be removed from office only in the following manner and for the following reasons:
 - (a) If a councilmember pleads guilty or nolo contendere to a federal or state felony charge, the Council shall, by majority vote of its entire membership, declare that the seat of the councilmember is vacant due to the disqualification of the incumbent for felonious behavior and shall forthwith proceed to fill the vacancy in accordance with the applicable provisions of Section 3-105 of this Charter. Should the Council fail to fill any vacancy within thirty days after its occurrence, the Mayor shall appoint a citizen with the requisite qualifications to fill the vacancy.
 - (b) (i) If a councilmember is convicted of a federal or state felony, that councilmember shall be automatically suspended from the seat without compensation. The suspension without compensation shall continue until the conviction is final and all appellate review of the original trial court proceedings is exhausted, at which time the Council shall, by majority vote of its entire membership, declare that the seat of the councilmember is vacant due to the disqualification of the incumbent for felonious behavior and shall forthwith proceed to fill the vacancy in accordance with the applicable provisions of Section 3-105 of this Charter. Should the Council fail to fill any vacancy within thirty days after its occurrence, the Mayor shall appoint a citizen with the requisite qualifications to fill the vacancy. During the period of suspension, the councilmember shall not perform any official act, duty, or function nor shall the councilmember receive any compensation, pay, allowance, emolument, or privilege of the office. If the conviction is reversed on appeal, the councilmember shall be entitled to and shall receive full back pay from the date of suspension with legal interest on portions thereof, from the date that the Councilmember, but for the suspension, would have been paid that portion. Additionally, the Councilmember shall

have restored all rights, duties, powers, allowances, emoluments, and privileges of office.

- (ii) During this suspension, the Council shall, by a majority vote of its entire membership, declare that the seat of the councilmember is temporarily vacant due to suspension and shall forthwith proceed to fill the vacancy in accordance with the applicable provisions of Section 3-105(2)(a) of this Charter. Should the Council fail to fill any vacancy within thirty days after its occurrence, the Mayor shall appoint a citizen with the requisite qualifications to fill the vacancy. Any citizen appointed to fill a temporary vacancy under the terms of this section shall serve in the appointed capacity until the conviction of the councilmember is reversed on appeal or until expiration of the term of office of the suspended councilmember, whichever comes first.
- (c) If a councilmember is recalled from office in accordance with applicable state or municipal law, the vacancy shall be filled forthwith in accordance with the applicable provisions of Section 3-105 of this Charter.

Section 3-107. Organization of the Council; Officers; Rules; Employees.

- (1) The members of the Council shall take office on the same day as the Mayor in accordance with Section 4-201 of this Charter. The Council shall meet in the Council Chamber at the City Hall for organization at noon on the day its members take office, at which time it shall elect one at-large member as President and any one of its other members as Vice-President, both of whom shall serve at pleasure of the Council. It shall also elect a Clerk of Council who shall not be selected from its own membership. In the event of the President's absence or disability, the Vice-President shall act as President. All councilmembers, including the President, shall have the right to vote in the Council at all times, except when a councilmember-at-large is serving as Acting Mayor, in which case the councilmember-at-large may vote on such matters and for the limited purposes as provided in Section 4-204 of this Charter. Five members of the Council shall constitute a quorum.
- (2) The Council shall adopt rules governing its officers and employees, the organization of committees, and the transaction of its business.

- (3) The Council shall adopt such reasonable rules and regulations, which are used herein synonymously, affecting the public, including regulations relating to petitions or applications to be presented to it and the hearing and determination thereof, as are not inconsistent with applicable law and as are necessary to the performance of the functions assigned to it, provided that no such regulations shall become effective until they shall have been published in the official journal at least one week prior to their adoption and shall have been subsequently adopted by the Council. The regulations shall also be published in the official journal after adoption by the Council. Such regulations shall be kept and indexed by the Clerk of Council, who shall make them available to members of the public upon request.
- (4) Consistent with civil service law and regulations, the Council may employ such employees as may be necessary for the proper discharge of its functions and shall establish by ordinance a pay plan for all its employees who are in the unclassified service.
- (5) The rules of the Council shall provide for regular meetings, which shall be held twice a month, provided that the Council may call additional regular meetings during the months of November and December by giving at least seventy-two hours advance public notice of an additional regular meeting. The Council's rules shall fix the time, date, and place of all regular meetings. Special meetings of the Council may be called by the Mayor or President of the Council and shall be called by the President upon petition of a majority of all members of the Council.
- (6) Any person shall be entitled upon request in writing to the Clerk of Council and subject to such regulation as the Council may have prescribed, to a reasonable hearing on any proposed ordinance. The Council may in its discretion provide for such hearing by the entire Council or a Committee thereof.
- (7) The Clerk of Council shall maintain a current and comprehensive index of all ordinances, resolutions, motions, rules, and regulations. Further, the Clerk of Council shall publish or cause to be published a current City Charter.

Section 3-108. Council Meetings to be Public.

The meetings of the Council and its committees shall be open to the public in accordance with applicable state and municipal law.

Section 3-109. Applicability of Certain General Provisions.

The Council and its employees shall be subject to the provisions of this Charter relative to the procurement of personal property, printing, engraving, and publication, contracting for public utility services, maintenance of equipment, disposal of personal property, payment for services and other expenses, distribution of printed matter and any applicable civil service law, rules and regulations.

Section 3-110. Mayor May Appear Before Council.

The Mayor shall have the right to attend any meeting of the Council or any of its committees and may express views on matters pending before the Council but shall have no right to introduce any motion, resolution, ordinance, or amendments thereof, nor to vote thereon.

Section 3-111. Legislation by Ordinance.

Every act of the Council which is to become law shall be by ordinance and shall begin with the words: "The Council of the City of New Orleans hereby ordains:". Repetition of the ordaining clause in succeeding portions of an ordinance shall not be required.

Section 3-112. Introduction, Consideration, and Passage of Ordinances.

- (1) Proposed ordinances must be complete and in writing and may be introduced by any member at any meeting of the Council. Every ordinance shall embrace but one object except those approving the annual operating and capital budgets and codifications.
- (2) After a proposed ordinance has been introduced, copies of it shall forthwith be prepared and distributed to each member of the Council and the Mayor and made available to the public.
- (3) A proposed ordinance shall not be altered or amended during its consideration so as to nullify its original purpose or so as to accomplish an object not germane to its original purpose.
- (4) A proposed ordinance shall lie over at least six calendar days beginning the day after its introduction before being finally considered by the Council.
- (5) Proposed ordinances on any of the following specified subjects can be

adopted only at a regular meeting of the Council and shall not be adopted until at least twenty calendar days have transpired beginning on the day after the date of introduction of the ordinance and not until a notice of the introduction of such proposed ordinance shall have been published in the official journal of the City not less than seven calendar days nor more than fourteen calendar days after the introduction thereof, which notice shall state the substance of the proposed ordinance and the date of the meeting at which the Council shall begin its consideration thereof:

- (a) Levying or increasing the rate of any tax or excise.
 - (b) Imposing any license, requiring any permit, establishing any charge for services rendered, or increasing the rate of any license, fee, or utility charge.
 - (c) The adoption, amendment, or comprehensive revision of the Master Plan or the Comprehensive Zoning Ordinance, including without limitation text amendments, zoning or rezoning, or changing the zoning districts or classifications.
 - (d) Alienating any immovable property or granting any servitude, franchise, or privilege.
- (6) The Clerk of Council shall distribute to all members of the Council and shall make available to the public copies of any proposed ordinance as soon as possible, but no later than two business days after introduction of the proposed ordinance.
 - (7) An amendment to a pending ordinance shall not require an additional period of days to lie over before it may be adopted by the Council, unless such amendment introduces new subject matter which is subject to the provisions of Section 3-112 (5) as provided above.
 - (8) Each proposed ordinance shall be read by title when called for final passage.
 - (9) Votes at final passage shall be taken by ayes and nays and the names of the councilmembers voting for and against each proposed ordinance or amendment shall be entered upon the journal of proceedings to be kept of all transactions of the Council.
 - (10) No proposed ordinance shall be adopted except by the affirmative vote of a majority of all members of the Council.

- (11) Should the Council by unanimous vote of a quorum declare the existence of an emergency due to act of God, riot, war, or a grave emergency which threatens widespread loss of life or grievous injury to health or property, the Council by unanimous vote of a quorum may waive all of the requirements of this Section pertaining to procedure, except those relating to the number of votes required for passage and the recordation of the vote in the official journal.

Section 3-113. Submission of Ordinances to the Mayor.

- (1) Every ordinance adopted by the Council shall be signed by its presiding officer and presented promptly by the Clerk to the Mayor.
- (2) The Mayor, within ten calendar days of receipt of an ordinance, shall return it to the Clerk with or without his approval or with his disapproval. If the ordinance has been approved it shall become law upon its return to the Clerk; if the ordinance is neither approved nor disapproved it shall become law at twelve o'clock noon on the tenth calendar day after its adoption; if the ordinance is disapproved, the Mayor shall submit to the Council through the Clerk a written statement of the reasons for the veto. The Clerk shall record upon the ordinance the date of its delivery to and receipt from the Mayor.
- (3) Ordinances vetoed by the Mayor shall be presented by the Clerk to the Council at its next regular meeting, and should the Council then or at its next regular meeting adopt the ordinance by an affirmative vote of two-thirds of all its members, it shall become law.
- (4) The Mayor may disapprove or reduce any item or items of appropriation in any ordinance except any such item or items appropriated for the purpose of auditing or investigating any part or all of the Executive Branch. Subject only to the foregoing exceptions, the approved part or parts of any ordinance making an appropriation shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the Council over the Mayor's veto as provided herein.
- (5) All ordinances which have become law shall immediately be deposited in the official archives of the Clerk of Council. The Clerk shall note on the face of the ordinance the date and time it has become law, and the ordinance shall become effective at noon on the following day, provided that ordinances adopted to meet emergencies shall become effective at the time they become law. Except as otherwise provided in this Charter, the Clerk shall cause each ordinance which has become law to be published in full in the official journal.

Section 3-114. Codification of Ordinances.

- (1) The Council shall cause to be maintained a code of ordinances, hereinafter referred to as the “code,” containing all of the ordinances of the City of general application which are appropriate for continuation as law. The code may consist of parts which may be published, bound, and distributed separately. The code shall be maintained by the Clerk of Council, or the Council may execute a contract for its maintenance by professional persons or organizations experienced in the revision and codification of ordinances or statutes.
- (2) The City Attorney shall direct the inclusion of ordinances in the code and shall direct the removal from the code of ordinances that have been declared unconstitutional or illegal by a court of competent jurisdiction in a final judgment or that are the subject of a permanent injunction. The City Attorney shall notify the Mayor and the Council of intended action pursuant to this paragraph, and such action shall become effective upon approval by a majority of the entire Council or, if no action is taken at the first or second regular meeting subsequent to its receipt of the notice of intended action, the City Attorney’s action shall become effective on the Monday following the second regular Council meeting subsequent to receipt of the notice.
- (3) The Council may adopt or amend any standard code of technical regulation by reference thereto in an adopting or amending ordinance. The procedures and requirements governing such an adopting or amending ordinance shall be those as prescribed for ordinances generally, except that the adopting ordinance shall be construed to include copies of the codes of technical regulations referenced in the adopting ordinance, as if fully reproduced therein. A copy of each adopted code of technical regulations and the adopting ordinance and any amendment thereto shall be deposited with the Clerk of Council in accordance with Section 3-113 (5) of this Charter. The adopted codes of technical regulations may be published separately from other sections of the code, in which event said codes shall be collectively referred to as the codes of technical regulations.
- (4) When the code, including the codes of technical regulations, or any general revision shall have been prepared, the Council shall cause copies of the same to be prepared and made available for public distribution and placed in the City Archives of the New Orleans Public Library. No ordinance approving such code or revision shall be adopted until ninety days have elapsed following the date on which the Council shall have noted in the official journal the availability of copies of such proposed code to the public, nor until compliance with all applicable state and

municipal laws. The code and general revisions need not be printed in the official journal but the Council shall cause the code or revisions to be published, bound, and distributed as provided in this Section.

- (5) All proposed ordinances of general application introduced after approval of the code shall be adopted as amendments to the code and shall indicate the section numbers to be assigned to the text of such ordinances in the code.

Section 3-115. Consideration and Adoption of the Annual Operating Budget Ordinance.

- (1) The Council, upon receipt of the operating budget, shall immediately publish a notice in the official journal, setting forth:
 - (a) A summary of the official forecast of the Revenue Estimating Conference, a summary of the proposed budget of revenues, and a summary of the estimated expenditures.
 - (b) The detail of recommended new sources of revenue or increased rates for existing taxes, licenses, fees, or other revenues.
 - (c) The availability of copies of the budget at the office of the Clerk of Council.
 - (d) The date, time, and place at which the Council will commence its public hearings upon the proposed budget, which shall not begin sooner than the fifth business day after the date of the publication of such notice.
- (2) The Council, upon conclusion of the public hearings but not later than the first day of December, shall adopt the operating budget ordinance in the form submitted by the Mayor, but it may increase, decrease, or delete any item of appropriation recommended by the Mayor. Upon concurrence of two-thirds of its members, it may add new items of appropriation or subdivide items of appropriation, provided, however, that all appropriations for personal services shall be made only in lump sum amounts and not by specific positions or rates of pay, except as otherwise provided by applicable law.

- (3) Amendments to the annual operating budget ordinance shall be considered and approved by the Council under the same procedures prescribed for its original adoption, but no amendment shall increase the aggregate of authorized expenditures to an amount greater than the estimate of revenues for the year. No state law, executive order, rule, or regulation requiring increased expenditures for any purpose that requires approval of the City shall become effective until approved by an ordinance identifying the legislative appropriation, local revenue, or other specific source of funds from which such increased expenditures shall be paid and only after affording the Revenue Estimating Conference a period of seven days within which to review and comment on the proposed source of funds.

Section 3-116. Budget of Revenues.

- (1) The Council, at the meeting at which the annual operating budget ordinance is adopted and within the limits of its power and subject to other provisions of this Charter, shall ordain such taxes and other revenue measures as will yield sufficient revenue which together with available surplus will balance said budget.
- (2) The annual operating budget ordinance shall not become effective until the budget has been balanced. The Department of Finance shall not approve any expenditure under any portion of an annual operating budget ordinance until sufficient estimated revenues have been provided to finance the proposed expenditures.
- (3) Revenues shall be estimated only upon the basis of generally accepted accounting principles as defined by the Governmental Accounting Standards Board, or any successor organization, for the fiscal year.

Section 3-117. The Capital Program and Capital Budget.

- (1) The Council shall approve a capital program and adopt a capital budget before it ordains the annual operating budget.
- (2) The Capital Program.
 - (a) The capital program shall detail all permanent physical improvements that are planned to be financed in whole or in part from funds that are or may become subject to control or appropriation by the Council during each of the ensuing five years. For each separate project there shall be shown the amount and the

sources of the money that has been expended or encumbered, or is to be expended or encumbered before the next fiscal year, and also the amount and the sources of the money planned to be expended during each of the ensuing five years.

- (b) The Council may not amend the capital program as submitted to it, until it has requested and received through the Mayor the recommendations of the City Planning Commission with respect to the proposed amendment. The Council shall not be bound by such recommendations and may act without them if they are not received within fifteen days from the date they are requested.

(3) The Capital Budget Ordinance.

- (a) The capital budget ordinance shall show in detail the capital expenditures to be made or incurred in accordance with the capital program during the next year. Amounts budgeted shall constitute appropriations from the funds indicated when available.
- (b) Amendments to the capital budget ordinance must conform to the capital program, as amended.

Section 3-118. Adoption of Pay Plans.

All persons employed by the City or any of its boards, whether as officers or otherwise, and paid either in part or in whole from appropriations made by the Council, except those whose compensation is fixed in this Charter, shall be compensated only in accordance with pay plans adopted by the Council. The pay plan for those persons in the classified service shall be in accordance with the prevailing provisions of the civil service law and the rules and regulations adopted thereunder. Council employees who are in the unclassified service shall be compensated in accordance with the provisions of Section 3-107(4) of this Charter. The pay of all other persons shall be upon the basis of a pay plan recommended by the Mayor and adopted by ordinance.

Section 3-119. Creation of General Debt.

- (1) The Council shall exercise all powers previously vested in the Commission Council in connection with the creation of debt by the Board of Liquidation, City Debt, on behalf of the City of New Orleans; provided, however, that except as expressly authorized elsewhere in this Charter, the Council shall not have authority to submit to the people any proposition creating any bonded indebtedness for the following purposes:
 - (a) The payment of any operating expense.

- (b) The payment of any judgment resulting from the failure of the City to pay any item or items of operating expense,
- (c) The payment for any equipment or any public improvement of a normal life of less than ten years.

The City shall have the authority, except as otherwise prohibited by this Charter, to incur any debt of a term longer than one year permitted under the Constitution and applicable state and municipal law with the approval of a majority of all members of the City Council.

- (2) The foregoing limitations shall not apply should the Council unanimously declare the existence of an emergency due to act of God, riot, war, or a grave emergency which threatens widespread loss of life or grievous injury to health or property.

Section 3-120. Creation of Special Assessment Debt.

The Council may authorize the issuance of certificates of indebtedness to finance assessable public improvements only to the extent provided in this Charter and in the manner provided by law.

Section 3-121. Anticipation of Revenues.

The Council may, subject to such limitations as may be contained in the Constitution, borrow in any calendar year in anticipation of the collection of the taxes of that year, and for any of the purposes for which such taxes are levied, such sums as shall not be in excess of seventy-five per cent of the amount of the uncollected taxes of such year.

Section 3-122. Official Journal.

- (1) The Clerk of Council shall annually offer a contract for the publication of the official journal of the City to be awarded to the lowest competitive bidder meeting the specifications contained in the bid documents. The requirements for the official journal shall be established by ordinance.

- (2) The ordinance establishing requirements shall also stipulate that the official journal will accept for publication, at not more than the same rates, the official publications of the various officers, departments and boards of the City.
- (3) Unless prohibited by applicable and preemptive state law, the Council may provide by ordinance that any item required by this Charter to be published in the official journal may instead be published electronically or in a register. The Chief Administrative Officer shall be responsible for implementation of said ordinance. Any contract for such publication shall be subject to applicable public bid laws and competitive selection procedures.

Section 3-123. Publication of Ordinances and Official Acts.

- (1) All ordinances and other official acts of the Council shall be published promptly after their adoption by one insertion in the official journal, except as otherwise provided by applicable state or municipal law or this Charter.
- (2) The Council may provide for or require the publication in the official journal of all or any part of the proceedings, notices, and actions of officers, departments and boards of the City.

Section 3-124. Investigations.

- (1) The Council shall have the power to conduct investigations of:
 - (a) The operation of any office, department or board administering the affairs of the City.
 - (b) Any subject upon which it may legislate.
 - (c) Any entity which receives funds from the City or which is funded in whole or in part by City taxes, fees, fines, bond proceeds, or other revenue generated by or under the authority of the City. Such investigation shall be limited to the use or expenditure of such funds.
 - (d) Any entity which was created or exists under the authority of the City.

- (2) In conducting investigations, the Council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto.

Section 3-125. Removal of Unclassified Appointees.

The Council may bring charges against any person appointed to the unclassified service for lack of qualifications, incompetence, neglect of duty, failure to comply with a lawful directive of the Civil Service Commission or gross misconduct in reference to that person's duties. The charges shall be presented in writing to the appointing authority and to the accused, and if the appointing authority does not remove the accused, the Council may order a public hearing thereon, at which the accused and the appointing authority shall have the right to be heard, to be represented by counsel, and to require the attendance of witnesses and the production of relevant books and papers. If, after hearing, the accused be found guilty as charged, the accused may be suspended or dismissed from the City service by the affirmative vote of a majority of the entire membership of the Council.

Section 3-126. Temporary Prohibitions.

- (1) The Council may by the affirmative vote of a majority of its membership impose a moratorium ordinance, interim zoning district, or other temporary prohibition on zoning, permitting, and other similar functions where necessary to protect the public health, safety, or welfare for a temporary period. All such temporary prohibitions shall specify the type of review required and the city agency responsible for the review; the agency shall complete its review and provide its report to the Council within the time limits established for such temporary prohibitions. No moratorium ordinance, interim zoning district, or other temporary prohibition shall remain in effect for more than one year, provided that the Council may by ordinance authorize one extension for an additional period of 180 days. In the event that the agency responsible for the required review has not completed its review and submitted its report within the initial period or the 180 day extension, the Council may by ordinance extend the temporary prohibition for one additional period of up to 180 days. Thereafter, no moratorium ordinance, interim zoning district, or similar prohibition of substantially the same legal effect on substantially the same geographic area may be imposed until at least one year after the expiration of the prior moratorium ordinance, interim zoning district, or other temporary prohibition. A moratorium ordinance adopted pursuant to this section shall not be required to lie over for the twenty-day period specified in Section 3-112(5) of this chapter.

- (2) Any moratorium ordinance, interim zoning district, or other temporary prohibition in effect on January 1, 1996 shall be limited to a term of one year in duration from that date subject to extensions as provided in paragraph (1) above.
- (3) Any moratorium ordinance, interim zoning district, or other temporary prohibition shall provide for a right of appeal to the Council for waivers or exceptions thereto. Such waivers or exceptions may be granted by an ordinance adopted by a majority of all members of the Council.

Section 3-127. Creation of Advisory Committees.

The Council may appoint advisory committees which shall exist for not more than one year from the date of appointment, but which may be reappointed from year to year.

The members of advisory committees shall not be paid; their function shall be limited to counsel and advice, and their expenses, if any, shall be paid from appropriations to the Council. Advisory committees shall have no employees, but the Council may cause its employees to furnish such service as may be needed by said committees.

Section 3-128. Granting of Franchises.

- (1) The Council shall have the power to grant franchises, privileges and permits, fixed or indeterminate, for the use of the streets and other public places for the furnishing of any service to the City or to its inhabitants subject to applicable state or municipal law. All franchises, privileges and permits and any renewals, extensions and amendments thereof, shall be granted only by ordinance. All such proposed ordinances shall be submitted to the Department of Utilities or its successor and it shall render to the Council a written report containing recommendations thereon.
- (2) Each such proposed ordinance granting a franchise, privilege, or permit, after having been introduced in the Council, shall be laid over and published once in full in the official journal. There shall then be published in the official journal once during each calendar week for the two successive weeks immediately following said publication in full, notices of intention, briefly describing the content of the proposed ordinance and citing where it can be seen. If any time during such period of publication, any citizen shall file notice with the Clerk of Council of a desire to be heard with respect to the proposed ordinance, it shall be the duty of the Council, after notice thereof in the official journal, to hold a public hearing thereon. After publication or public hearing as the case may be, the Council may approve, disapprove or amend the proposed ordinance. Should the Council desire to amend such proposed ordinance,

it shall, before final passage, request the recommendation of the Department of Utilities or its successor with respect to the proposed changes. The Council shall not be bound by such recommendation and may act without it if it is not received within fifteen days from the date it is requested.

- (3) The City shall be reimbursed by the grantee for all costs of publishing the preliminary ordinance, notices of intention and public hearing, and final ordinance.
- (4) Should a proposed ordinance granting a franchise, privilege, or permit affect any portion of the Master Plan of the City Planning Commission, the Council shall before final consideration and passage request a recommendation from the City Planning Commission with respect thereto.

Section 3-129. Terms.

- (1) Franchises, privileges and permits shall specify their purpose and the streets or other public areas which they affect. No perpetual franchise shall be granted.
- (2) The Council shall, when granting an indeterminate permit, and may in other instances, reserve to the City the right to purchase the property of the utility devoted to the service furnished.
- (3) The Council may require adequate consideration for the privilege of using the streets or other public areas in the ordinance granting a franchise, privilege or permit.
- (4) No assignment of any franchise, privilege or permit shall be valid without the approval of the Council.

Section 3-130. Establishment of Rates.

- (1) The Council of the City of New Orleans shall have all powers of supervision, regulation, and control consistent with the maximum permissible exercise of the City's home rule authority and the Constitution of the State of Louisiana and shall be subject to all constitutional restrictions over any street railroad, electric, gas, heat, power, waterworks, and other public utility providing service within the City of New Orleans including, but not limited to the New Orleans Public Service, Inc. and the Louisiana Power and Light Company, their successors or assigns.
- (2) In the exercise of its powers of supervision, regulation and control of any

street railroad, electric, gas, heat, power, waterworks, or other public utility, the Council shall, in cases involving the establishment, change or alteration of rates, charges, tolls, prices, fares or compensation for service or commodities supplied by such utilities, cause notice of the matter to be served upon the person, firm or corporation affected thereby, so that such person, firm or corporation shall have an opportunity, at a time and place to be specified in said notice, to be heard in respect to said matter. The Council shall make all necessary and reasonable rules and regulations to govern applications for the fixing or changing of rates and charges of public utilities and all petitions and complaints relating to any matter pertaining to the regulation of public utilities, and shall prescribe reasonable rules and regulations to govern the trial, hearing and rehearing of all matters referred to herein, under the same procedure as provided for ordinances granting franchises.

- (3) The City of New Orleans may institute or participate in any proceeding affecting the City Council's powers of supervision, regulation and control granted hereunder over public utilities or affecting in any way the interests of the ratepayers of the City of New Orleans, and any recovery or benefit derived from any such proceeding shall be allocated by the City Council as it deems fit and proper, pursuant to such reasonable rules and regulations as the Council may adopt.
- (4) The City Council's powers of supervision, regulation and control over any street railroad, electric, gas, heat, power, waterworks, or other public utility shall include, inter alia, the power to allocate any funds, awards, recovery or any other benefit obtained by any public utility supervised, regulated or controlled under the provisions of this Chapter from any person, firm or corporation in connection with or in any way related to negotiations, judicial or administrative proceedings, directly or indirectly related to or in connection with any matter which is under the powers and authority herein granted to the City Council affecting the ratepayers in the City of New Orleans, and such allocations shall be made by ordinance or resolution, provided same shall be in accordance with the provisions hereof.
- (5) The powers of supervision, regulation, and control over any street railroad, electric, gas, heat, power, waterworks, or other public utility, shall include the authority to assess against such public utilities all costs, fees, and expenses incurred by the City of New Orleans in (a) the exercise of its powers of supervision, regulation, and control thereof, (b) the conduct of or participation in judicial, administrative or other proceedings which directly or indirectly affect the ratepayers of the City of New Orleans, including but not limited to the costs, fees and expenses of all services provided by consultants, engineers, attorneys, experts and such other persons, firms or corporations having expertise in the supervision,

regulation or control of a public utility and (c) any costs, fees, and expenses otherwise related to such other matters over which the Council has jurisdiction.

- (6) The orders of the Council fixing or establishing any rate, fare or charge for any commodity furnished, service rendered, or to be rendered, by any street railroad, electric, gas, heat, power, waterworks, or other public utility, or allocating any funds or other benefits, shall go into effect at such time as may be fixed by the Council and shall remain in effect and be complied with, unless and until changed, set aside or suspended by the Council or by a court of competent jurisdiction. Such order of the Council shall be upon a resolution or an ordinance in open council meeting and passed by an affirmative vote of a majority of all members of the Council.
- (7) The orders of the Council shall be enforced by the imposition of such reasonable penalties as the Council may provide, and any party in interest may appeal from orders of the Council to the Civil District Court for the Parish of Orleans by filing suit against the Council within thirty (30) days from the date of the order of the Council, and not thereafter.
- (8) The Council shall supervise, regulate, and control any street railroad, electric, gas, heat, power, waterworks, or other public utility, including but not limited to New Orleans Public Service, Inc. and Louisiana Power and Light Company, and their respective successors and assigns. The Council shall have the right and authority to obtain from the street railroad, electric, gas, heat, power, waterworks, or other public utility, supervised, regulated and controlled by it all information, papers, books, records, documents, and such other materials as shall be necessary and proper for the exercise of said powers, regulatory or otherwise and all costs, fees, and expenses in connection therewith shall be borne by the public utility required to furnish or produce same.
- (9) No matter subject to the supervision, regulation and control of the Council, as provided herein, shall be affected, augmented, diminished, or modified in any manner or form except as provided herein or by subsequent order or action of the Council or by order or judgment of a court of competent jurisdiction.

Section 3-131. Special Permits.

- (1) The Council may by ordinance provide for the issuance of revocable permits limited as to time and purpose for the use of the streets and other public places when the furnishing of a public service to the City or to its inhabitants is temporarily required.

- (2) The Council may by ordinance provide for the issuance of certificates of public necessity and convenience and for the regulation and supervision of all passenger vehicles offered for hire on the streets and other places.

ARTICLE IV

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CHAPTER 1

ORGANIZATION AND GENERAL PROVISIONS

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ARTICLE IV. EXECUTIVE BRANCH

CHAPTER 1. ORGANIZATION AND GENERAL PROVISIONS

Section 4-101. Executive Powers.

All executive and administrative powers of the City shall be vested in and exercised by the Executive Branch.

Section 4-102. Organization.

The Executive Branch shall consist of the Office of Mayor, of which the Mayor shall be the head; the Administrative Office, of which the Chief Administrative Officer shall be the head; the department heads; the unattached boards in Article V of this Charter; and the following departments and boards; all of which are hereby created and established or continued and recognized:

(1) Departments:

- Department of Law
- Department of Police
- Department of Fire
- Department of Safety and Permits
- Department of Sanitation
- Department of Public Works
- Department of Recreation
- Department of Human Services
- Department of Health
- Department of Finance
- Department of Property Management
- Department of City Civil Service
- Department of Utilities
- Department of Parks and Parkways

(2) Boards and Commissions:

(a) Departmental:

In the Department of City Civil Service:

Civil Service Commission

In the Department of Safety and Permits:

Board of Electrical Examiners

Board of Mechanical Examiners

Board of Examiners of Operating Engineers

(b) Attached to Departments or Commissions:

To the Department of Safety and Permits:

Board of Building Standards and Appeals

To the City Planning Commission:

Board of Zoning Adjustments

To the Department of Property Management:

Delgado Albania Plantation Commission

To the Department of Finance:

Board of Trustees of the Municipal Employees' Retirement System

Board of Trustees of the Police Pension Fund

Board of Trustees of the Firemen's Pension and Relief Fund

The foregoing boards shall be attached to but shall not be a part of the departments or commissions, as indicated; and the head of each department shall be an ex-officio member of the boards attached thereto to the extent permitted by law, and except as otherwise provided herein. The responsibilities of the departments with respect to such boards shall be limited to the general oversight of their operations for the purpose of providing information thereon to the Mayor, Chief Administrative Officer and the Council.

(c) Other:

Board of City Trusts

Central Business District Historic District Landmarks Commission

New Orleans Historic District Landmarks Commission

Mosquito Control Board

Section 4-103. Other Administrative Agencies Prohibited.

- (1) No department nor board shall be created except as provided in this Charter; but if any constitutional or legislative office or board operating in or with respect to any function of the City be abolished, the Council, in its discretion, shall have the right by ordinance to establish a corresponding office or board, in such manner as the Council may deem proper.
- (2) The names, functions, or assignment of functions of departments, officers, boards, and commissions included in this Article may be amended, and such departments, officers, boards, and commissions may be consolidated, subdivided, reorganized, or abolished by amendment in accordance with the provisions of Section 9-201(2), except for the Mayor, the Administrative Office, and the Departments of Law, Police, Fire, Finance, and City Civil Service, which shall be subject to amendment only in accordance with Section 9-201(1).

Section 4-104. Creation of Advisory Committees.

The Mayor, department heads with the approval of the Mayor, and boards may each appoint advisory committees which shall exist for not more than one year from the date of appointment, but which may be reappointed from year to year. The members of advisory committees shall not be paid; their function shall be limited to counsel and advice; and their expenses, if any, shall be paid from appropriations to the appointing authority. Advisory committees shall have no employees, but the appointing authority may cause its employees to furnish such services as may be needed by said committees.

Section 4-105. Assignment of Activities.

- (1) All duties, functions or activities of the City not assigned herein or otherwise assigned by applicable state or municipal law may be assigned or reassigned by the Mayor to appropriate offices, or to existing departments and boards.
- (2) Any office or unit established after the effective date of this Charter shall be placed in one of the offices, departments or boards created or recognized by this Charter.

Section 4-106. Appointment and Removal of Department Heads.

- (1) The City Attorney shall be appointed and may be removed by the Mayor.
- (2) All other department heads shall be appointed and may be removed by the Chief Administrative Officer with the approval of the Mayor, except where other appointing authority is designated by this Charter or by applicable State law.
- (3) No appointing authority shall appoint any person in the unclassified service until satisfied by proper investigation that the person to be appointed is of good moral character and is fully qualified by experience or ability properly to perform the duties and execute the functions assigned to the position.

Section 4-107. Powers and Duties of Officers and Department Heads.

- (1) Subject to the provisions of applicable civil service law, rules and regulations, officers and department heads shall have the power and duty to appoint, promote, supervise, discipline, and remove all officers and employees in their respective offices or departments; to determine their compensation subject to the approved pay plans and budgetary limitations; and to assign duties to employees and supervise the performance thereof.
- (2) Each officer or department head shall, subject to the approval of an immediate superior, prescribe such rules as are necessary for the organization and internal government of the office or department.
- (3)
 - (a) The Mayor, or each officer or department head with the consent of the Mayor, shall submit to the Council for its approval any regulations affecting the public and necessary to the performance of the functions assigned to such office or department. No such regulation shall become effective until approved by resolution of the Council or as otherwise provided in paragraph (3)(d) of this section.
 - (b) Prior to July 1, 1996, the Council shall by ordinance provide for public notice and comment on proposed regulations affecting the public. The ordinance shall provide for an emergency adoption procedure by which regulations may in certain specified circumstances be made immediately effective, but any regulation so adopted shall not remain in effect for more than 180 days after the date of its adoption. After its adoption, the ordinance governing promulgation of regulations may be amended only by an ordinance approved with a two-thirds vote of the entire membership of the Council.

- (c) Prior to submission of any proposed regulation to the Council, the officer or department head shall publish notice of the intention to adopt such regulation once in the official journal. Following its final promulgation, every regulation shall be published once again in the official journal, unless deemed too lengthy for publication by the officer or department head, who shall in such case publish a summary of its contents and notice of its availability to the public.
- (d) The City Attorney shall maintain and periodically cause to be published a comprehensive and current compilation of all regulations promulgated in accordance with this process and having legal effect in the City of New Orleans. Regulations shall become effective at 12:01 A.M. on the twenty-second day beginning on the day following approval by the Council. If the Council neither approves nor disapproves any regulations submitted to it within forty-five days of submittal, the regulations shall become legally effective upon the expiration of such forty-five days. Any such regulation may be rescinded or amended by the same process as when originally submitted. All regulations shall be subordinate to the ordinances of the Council. All regulations heretofore adopted by the City of New Orleans are hereby ratified and continued in existence until modified in accordance with the procedure established in this Section.

Section 4-108. Powers and Duties of Boards and Commissions.

All boards shall have the same powers and duties with respect to their functions as those prescribed in this chapter for officers and department heads, unless otherwise provided by this Charter or applicable state or municipal law. They may delegate such powers and duties to their executive officers, provided that all matters involving appointment, discipline, removal or pay shall become null unless approved by the board within sixty days.

Section 4-109. Public Benefit Corporations.

- (1) If authorized by the Mayor and approved by the Council by ordinance, the City may establish public benefit corporations, development corporations, public trusts, and other entities authorized by state law for public purposes, including development, management, and promotion of assets of the City, subject to such budgetary, personnel or other requirements as may be established by ordinance.

- (2) Public benefit corporations, development corporations, public trusts, and other entities authorized by state law and established prior to January 1, 1996, the effective date of this amendment to this Charter, are hereby recognized. Such entities may be continued, modified or abolished in accordance with the terms of applicable enabling statutes, ordinances, articles of incorporation, by-laws, or trust indentures in effect prior to January 1, 1996 or as thereafter revised.

CHAPTER 2

THE MAYOR

Section 4-201. Election and Term

Section 4-202. Qualifications

Section 4-203. Compensation

Section 4-204. Vacancy in Office

Section 4-205. Suspension and Removal

Section 4-206. Powers and Duties

Section 4-207. Office

Section 4-208. The Chief Administrative Officer

CHAPTER 2

THE MAYOR

Section 4-201. Election and Term.

The electors of the City shall elect a Mayor at an election to be held in accordance with the election laws of the state. The Mayor shall take office on the first Monday in May of 1998 and every four years thereafter, provided that if applicable law provides for a primary and general election for Mayor and members of the Council in the year 2005 and every fourth year thereafter, the Mayor shall take office beginning in the year 2006 on the third Monday in January. A person who has served as Mayor for more than one and one-half terms in two consecutive terms shall not be eligible for election as Mayor for the succeeding term.

Section 4-202. Qualifications.

The Mayor shall be a citizen of the United States and a qualified elector of the City, and shall have been domiciled in the City for at least five years immediately preceding the election.

Section 4-203. Compensation.

The salary and other compensation of the Mayor shall be provided by ordinance. No change in the salary and other compensation made during the last six months of any term shall be valid as to the Mayor elected for the succeeding term. The Council shall provide in the annual operating budget a contingent fund of no less than \$5000 to be expended by the Mayor for such public purposes as the Mayor may deem proper.

Section 4-204. Vacancy in Office.

- (1) A vacancy in the office of Mayor caused by death, resignation, removal, suspension or disqualification shall be filled as follows:
 - (a) If the unexpired term is for less than one year, the district councilmembers shall, by majority vote, elect one of the two councilmembers-at-large to be Mayor for the unexpired term, and a vacancy shall thereupon exist in the office of councilmember-at-large.

- (b) If the unexpired term is for one year or more, the vacancy shall be filled by special election, to be called by the Council within ten days after the vacancy occurs and to be held at the earliest available date permitted under the election laws of the state, at which time the electors of the City shall elect a citizen with the requisite qualifications to fill the vacancy for the remainder of the term; provided that if any special or general election is to be held in the City after sixty days and within six months after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.
 - (c) Pending the election of a Mayor when the length of the unexpired term is one year or more, the district councilmembers shall, by majority vote, appoint one of the two councilmembers-at-large to be acting Mayor during the period from the occurrence of the vacancy until a Mayor is elected and assumes office.
- (2) In the absence of the Mayor, the office shall be filled by an acting Mayor who shall be appointed by the Mayor from the two councilmembers-at-large. If within ten days the Mayor should fail to so appoint an acting Mayor, the district councilmembers shall, by majority vote, appoint one of the councilmembers-at-large as acting Mayor.
- (3) The appointment of a councilmember-at-large as acting Mayor shall not be deemed to create a vacancy in the office of councilmember-at-large, but while serving as acting Mayor the councilmember shall not perform duties as a member of the Council, except in the case of an ordinance requiring a two-thirds vote of the Council or in order to break a tie vote of the Council, in which case the acting Mayor may vote as a councilmember. A councilmember-at-large appointed acting Mayor shall receive compensation only at the level of a councilmember. A councilmember-at-large no longer serving as acting Mayor may vote on a matter addressed when serving as acting Mayor.

Section 4-205. Suspension and Removal.

The Mayor shall be subject to suspension or removal from office only in the following manner and for the following reasons:

- (1) (a) In the event that a Mayor is afflicted with a mental or physical condition that renders the Mayor temporarily or permanently unable to discharge the powers and duties of office, the Chief Administrative Officer, the City Attorney, the Director of the Department of Health or a physician designated by the Director of

that Department or its successor, and a physician appointed by the deans of the Louisiana State University Medical School and the Tulane University Medical School shall so certify by unanimous written declaration before a Notary Public and shall promptly deliver their declaration to the Clerk of Council. If the declaration certifies that the Mayor is temporarily incapable of performing the duties of office, the Council shall be required to vote on the matter within seven days from delivery of the declaration; upon rendering an affirmative vote of two-thirds of its entire membership, the Council shall declare the office temporarily vacant due to the incapacity of the incumbent. Thereafter, the district Councilmembers shall forthwith, by majority vote, appoint one of the Councilmembers-at-large as acting Mayor. If the declaration certifies that the Mayor is permanently incapable of performing the duties of office, the Council shall be required to vote on the matter within seven days from the delivery of the declaration; upon rendering an affirmative vote of two-thirds of its entire membership, the Council shall declare that the seat of the Mayor is vacant due to the incapacity of the incumbent and shall proceed forthwith to fill the vacancy in accordance with the provisions of Section 4-204 of this Charter.

- (b) Any Mayor who has been determined to be temporarily or permanently unable to discharge the powers and duties of office shall continue to receive from the city a sum which together with the Mayor's disability benefits and retirement allowance, if any, shall equal the annual salary which such Mayor was receiving at the time of the determination of temporary or permanent incapacity, payable in the same manner as the Mayor was previously compensated until the expiration of the term for which such Mayor had been elected or such Mayor's death, whichever shall occur first. The Mayor shall apply for any retirement allowance or disability benefits to which entitled, and the disability allowance provided for in this section shall not reduce or suspend such retirement allowance or disability benefits, notwithstanding any other provision of law.
- (2) In the event that a Mayor pleads guilty or nolo contendere to a federal or state felony charge, the Council shall, by a majority vote of its entire membership, declare that the seat of the Mayor is vacant due to the disqualification of the incumbent for felonious behavior and shall forthwith proceed to fill the vacancy in accordance with the provisions of Section 4-204 of this Charter.

- (3) (a) If the Mayor is convicted of a federal or state felony, the Mayor shall be automatically suspended from the seat without compensation. The suspension without compensation shall continue until the conviction is final and all appellate review of the original trial court proceedings is exhausted, at which time the Council shall, by a majority vote of its entire membership, declare that the seat of the Mayor is vacant due to the disqualification of the incumbent for felonious behavior and shall forthwith proceed to fill the vacancy in accordance with the provisions of Section 4-204 of this Charter. During the period of suspension, the Mayor shall not perform any official act, duty, or function nor shall the Mayor receive any compensation, pay, allowance, emolument, or privilege of the office. If the conviction is reversed on appeal, the Mayor shall be entitled to and shall receive full back pay from the date of suspension with legal interest on portions thereof from the date that the Mayor, but for the suspension, would have been paid that portion. Additionally, the Mayor shall have restored all rights, duties, powers, allowances, emoluments, and privileges of office.
- (b) During this suspension, the Council shall, by a majority vote of its entire membership, declare that the seat of the Mayor is temporarily vacant due to suspension. Thereafter, the district councilmembers shall, by majority vote, appoint one of the councilmembers-at-large as acting Mayor. Any councilmember-at-large appointed to fill a temporary vacancy under the terms of this section shall serve in the appointed capacity until the conviction of the Mayor is reversed on appeal or until expiration of the term of office of the suspended Mayor, whichever comes first.
- (4) In the event that a Mayor is recalled from office in accordance with state or municipal law, the vacancy shall be filled forthwith in accordance with the provisions of Section 4-204 of this Charter.
- (5) In the event that the Mayor fails to meet the qualifications for office, the Mayor shall thereby vacate the office and the vacancy shall be filled forthwith in accordance with the provisions of Section 4-204 of this Charter.

Section 4-206. Powers and Duties.

- (1) **Executive and Administrative Powers.** The Mayor shall be the chief executive officer of the City. The Mayor shall have the power and shall be required to:

- (a) Exercise general oversight of the activities of boards and other agencies of City government and coordinate them with other activities of the City.
 - (b) Exercise directly or through the Chief Administrative Officer supervision over all other executive and administrative work of the City and provide for the coordination of administrative activities.
 - (c) See that the provisions of this Charter, the ordinances of the City, and all other laws are enforced.
 - (d) Appoint the Chief Administrative Officer and the City Attorney.
 - (e) Appoint, with approval of a majority of all members of the Council, members of all boards except as otherwise provided in this Charter or by applicable state or municipal law.
 - (f) Submit annually to the Council for its consideration and approval an operating budget, a capital program and a capital budget.
 - (g) Recommend to the Council a pay plan for all officers and employees in the unclassified service except those provided for under Section 3-107 of this Charter.
 - (h) Sign contracts, bonds or other instruments requiring the assent of the City except those which the Director of Finance or other officer is authorized to sign.
 - (i) See that the terms and conditions of all contracts are faithfully executed.
- (2) **Powers with Respect to Council.** The Mayor may:
- (a) Present to the Council messages or information which in the Mayor's opinion are necessary or expedient.
 - (b) Attend Council meetings and have a voice in the proceedings.
 - (c) Call special sessions of the Council.
 - (d) Veto ordinances.
- (3) **Other Powers.** The Mayor shall have the authority to exercise such other powers and perform such other duties as may be prescribed by this Charter or by state or municipal law, including but not limited to the following:

- (a) Participate but not vote in the proceedings of all boards or other agencies of City government of which the Mayor is not made an ex officio member.
- (b) Remove at pleasure all officers appointed by the Mayor without Council confirmation.
- (c) Issue executive orders establishing policies and procedures for the executive branch and see that they are published promptly thereafter.
- (d) Subject to such limitations as may be established by ordinance or other applicable law, declare a state of emergency due to acts of God, riot, war, or a grave emergency which threatens widespread loss of life or grievous injury to health or property.
- (e) Study, devise, and implement programs to improve housing and neighborhood conditions in the City.
- (f) Study, devise, and implement programs to foster economic development in the City.
- (g) Provide for cooperation and coordination among criminal justice agencies and officials.
- (h) Seek compliance with federal, state, and local environmental and safety laws and regulations, permit requirements, and regulatory orders by all City officers, employees, boards, commissions, contractors, and recipients of municipal funds.
- (i) Perform such other duties as are conferred upon the Mayor by the Charter or its enabling legislation and by applicable state or municipal law.

Section 4-207. Office.

The Mayor's office shall be in the City Hall, and the Mayor shall be custodian of the corporate seal.

Section 4-208. The Chief Administrative Officer.

- (1) The position of Chief Administrative Officer shall be in the Office of the Mayor, but the employees of the Administrative Office shall be in the

classified service except as provided by applicable civil service law. The Chief Administrative Officer shall be the Mayor's principal assistant and the budget officer of the City and shall be appointed solely on the basis of ability to perform the duties and functions of the office. The salary of the Chief Administrative Officer shall be provided for in the pay plan submitted by the Mayor to the Council.

- (2) Should the Mayor fail to appoint a Chief Administrative Officer within sixty days of the occurrence of any vacancy in the position, the Council shall make the appointment.

CHAPTER 3

THE ADMINISTRATIVE OFFICE

Section 4-301. The Administrative Office

Section 4-302. Duties of the Chief Administrative Officer

CHAPTER 3

THE ADMINISTRATIVE OFFICE

Section 4-301. The Administrative Office.

The Chief Administrative Officer shall be the head of the Administrative Office and shall be authorized to employ necessary staff.

Section 4-302. Duties of the Chief Administrative Officer.

The Chief Administrative Officer shall:

- (1) Supervise the heads of all departments, except the Departments of Law and City Civil Service. The Mayor may from time to time by written notice relieve the Chief Administrative Officer of the responsibility of supervising the heads of one or more departments, except the Departments of Finance and Property Management, for such portions of time as the Mayor may designate. Should the Mayor remove a department head from the supervisory authority of the Chief Administrative Officer, the Mayor shall immediately assume full responsibility for the supervision of such department head.
- (2) Appoint or remove, with the approval of the Mayor, the heads of all departments, except those whose appointment or removal is otherwise provided for by this Charter or applicable State law.
- (3) Give general oversight to the Departments of Law, City Civil Service and the City Planning Commission for the purpose of coordinating their activities with those of other agencies of the City and develop measures to promote cooperation and coordination in the delivery of services and the carrying out of functions and activities by unattached boards and other municipal public bodies with those of other agencies of city government.
- (4) Keep the Mayor advised concerning the activities and policies of all offices, departments and boards, make or cause to be made investigations and studies of the internal organization and procedures of any office, department or board, and require such reports from any of them as are deemed necessary.

- (5) Prescribe accepted standards of administrative practice to be followed by all offices, departments and boards.
- (6) Prepare the annual operating and capital budgets, and supervise the execution of the budget ordinances.
- (7) Make information available to the Mayor, the Council, and the public concerning the current status of the financial affairs of the City and all offices, departments and boards receiving appropriations from the City.
- (8) Attend meetings of any board or committee of which the Mayor is a member when requested by the Mayor, and participate in the discussion and deliberations of such board or committee, including the authority to introduce any motion or resolution or vote thereon when the Mayor is not also in attendance.
- (9) Attend meetings of the Council at its request and make available such information as it may require.
- (10) Perform all other duties required by this Charter or assigned in writing by the Mayor.

CHAPTER 4

DEPARTMENT OF LAW

Section 4-401. Functions

Section 4-402. City Attorney and Legal Staff

Section 4-403. Special Counsel

Section 4-404. Notaries

Section 4-405. Service of Legal Processes

CHAPTER 4

DEPARTMENT OF LAW

Section 4-401. Functions.

The Department of Law, headed by a City Attorney, shall:

- (1) Direct and supervise the legal affairs of the City.
- (2) Provide legal advice to the Mayor and Council when requested and when directed by the Mayor to all officers, departments, and boards concerning any matter affecting the interests of the City.
- (3) Have charge of all legal matters in which the City has an interest or to which the City is a party, with power and authority, when directed by the Mayor or the Council, to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as may be deemed necessary for the assertion or protection of the rights and interests of the City.
- (4) Prepare proposed ordinances when requested by the Mayor or any member of the Council.
- (5) Prepare or approve as to form and legality all contracts, documents and instruments creating any legal or conventional obligation affecting the City.
- (6) Perform all other duties required by this Charter, the Mayor or the Council and not inconsistent with the functions of this Department.

Section 4-402. City Attorney and Legal Staff.

- (1) The City Attorney shall be a licensed attorney who is domiciled in and an elector of the City, who has been admitted to practice law before the Supreme Court of Louisiana for at least five years, and who shall have actively practiced law in Louisiana for at least five years immediately preceding appointment.
- (2) The professional staff of the Department shall consist of licensed attorneys who are domiciled in and electors of the City and who have been admitted to practice law before the Supreme Court of Louisiana.

Section 4-403. Special Counsel.

- (1) No special counsel shall be retained to represent the City or any officer, department, or board except the Sewerage and Water Board, the Department of City Civil Service, the Public Belt Railroad Commission, and the Board of Liquidation, City Debt, and except as may herein be otherwise provided.
- (2) The Council may, by two-thirds vote of its entire membership, employ special counsel for itself.
- (3) The Council may, by two-thirds vote of its entire membership, authorize any officer, department or board to employ special counsel for any special matter presenting a real necessity for such employment, provided any such authorization shall specify the compensation, if any, to be paid for said services.

Section 4-404. Notaries.

- (1) The City Attorney shall be responsible for designating one or more Notaries Public, who shall be attorneys licensed to practice law in the State of Louisiana and none of whom shall be members of the Council, before whom shall be passed all contracts and other transactions required by the City Attorney or other counsel to be in authentic form. The Department of Law shall establish uniform reasonable processing fees approved by the Council for all Notaries Public performing such services. Said services shall be paid by those transacting business with the City, and these funds shall become part of the general fund of the City when utilizing the services of Notaries Public from among professional staff within the Department of Law. Notaries within the Department of Law shall be utilized to perform such services, except where the City Attorney certifies a special need to exist and the Council, by two-thirds vote of its entire membership, approves the special need to appoint the notary who is not within the Department of Law. Designated notaries within the Department of Law shall receive no compensation for the notarial functions performed under this Section other than that compensation provided by the regularly applicable City pay plan.
- (2) A certified copy of every act or contract to which the City is a party shall be filed with the Department of Law and shall form a part of the archives of said Department.

Section 4-405. Service of Legal Processes.

Legal process against the City shall be served upon the Mayor, the acting Mayor, or the City Attorney.

CHAPTER 5

DEPARTMENT OF POLICE

Section 4-501. Functions

Section 4-502. Emergency and Special Police

Section 4-503. Other Police Prohibited

CHAPTER 5

DEPARTMENT OF POLICE

Section 4-501. Functions.

The Department of Police, headed by a Superintendent of Police, shall:

- (1) Organize, administer, supervise and discipline the police force of the City.
- (2) Enforce traffic regulations and investigate traffic accidents.
- (3) Operate and maintain communication systems either separately or in conjunction with others.
- (4) Make all legal searches, seizures, and arrests and exercise all legal authority incident thereto which is now or may hereafter be conferred by law upon police officers, and maintain temporary lockups for the confinement of prisoners.
- (5) Serve subpoenas when directed by proper authority.
- (6) Assist all city departments and agencies in the enforcement of functions assigned to them.
- (7) Enforce the ordinances of the City and all state and municipal laws, and prevent the violation thereof.
- (8) Maintain peace; protect life, property, and all other rights and liberties of the people; and do and perform all other lawfully assigned acts.
- (9) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Section 4-502. Emergency and Special Police.

- (1) Emergency Police:
 - (a) In case of riot, general conflagration, flood or similar grave emergency, the Mayor may authorize the Superintendent to appoint emergency police. Such appointments shall be for a period

of not more than thirty days and may be extended for like periods only by the express authorization of the Mayor and two-thirds vote of the Council.

- (b) Emergency police shall have such powers as may be vested in them by the Superintendent; shall be subject to the rules and regulations governing the regular police force; and shall receive compensation at the regular rates for the grades to which appointed.

(2) Special Police:

- (a) The Superintendent may, in the manner prescribed by ordinance and subject to standards set by the Superintendent in regulations, deputize persons not members of the police force to exercise limited police powers. When exercising such powers with respect to privately owned property or places, a person so deputized shall not be paid from public funds and shall not be entitled to public employee benefits for such services. Regular city employees exercising such powers with respect to public property or places shall be entitled only to the compensation and benefits attached to their regular employment.
- (b) The Superintendent shall prescribe the rules and regulations governing the exercise of police power by persons so deputized and may suspend or cancel the deputization in the superintendent's discretion.

- (3) The Superintendent shall not appoint or deputize any person who is not of good moral character to exercise police functions under this section.

Section 4-503. Other Police Prohibited.

No officer, department or board operating in or for the City, other than the Department of Police, shall have a police force.

CHAPTER 6

DEPARTMENT OF FIRE

Section 4-601. Functions

Section 4-602. Police and Emergency Authority

CHAPTER 6

DEPARTMENT OF FIRE

Section 4-601. Functions.

The Department of Fire, headed by a Superintendent of Fire, shall:

- (1) Organize, administer, supervise and discipline the fire force of the City.
- (2) Extinguish fires and investigate their causes.
- (3) Operate and maintain communication systems either separately or in conjunction with others.
- (4) Administer and enforce ordinances, regulations, and all state and municipal laws relating to fire prevention and safety of persons.
- (5) Respond either separately or in conjunction with others to situations involving hazardous materials and to other emergency situations involving the safety of persons or property.
- (6) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Section 4-602. Police and Emergency Authority.

The Superintendent of Fire or the Superintendent's representative shall have the powers of a police officer while going to or attending any fire or alarm of fire. The Superintendent or acting Superintendent shall have the authority in an emergency to cause to be demolished any structure when such demolition is essential to the extinguishment or control of fire or other emergency situation in the judgment of the Superintendent or Acting Superintendent.

CHAPTER 7
DEPARTMENT OF SAFETY AND PERMITS

Section 4-701. Definition

Section 4-702. Functions

Section 4-703. Board of Building Standards and Appeals

Section 4-704. Examining and Licensing Boards

CHAPTER 7

DEPARTMENT OF SAFETY AND PERMITS

Section 4-701. Definition.

As used in this Chapter, "permit" shall mean any license, permit, or other authorization required by law, ordinance or regulation for other than revenue purposes.

Section 4-702. Functions.

The Department of Safety and Permits, headed by a Director of Safety and Permits, shall:

- (1) Administer and enforce the zoning and building code ordinances and all state and municipal laws and regulations under which permits are required, as to all officers, departments, boards and governmental agencies and to all persons, firms and corporations, public and private, except as may be otherwise provided herein or by applicable state or municipal law.
- (2) Issue permits and to that end:
 - (a) Receive all applications for permits and determine whether the applicant is entitled thereto according to laws, ordinances and regulations under which the permit is required. No permit shall be issued until after certification by the appropriate office, department or board interested or affected, if any.
 - (b) Issue the permit if the application is approved and the fee paid, or notify the applicant in writing of any refusal and the reasons therefor.
- (3) Make or cause inspections, tests or examinations to be made when prerequisite for the issuance of a permit and no certification is required from another office department or board. When such certification is required, the Chief Administrative Officer shall by rule provide for the making of the necessary inspections, tests or examination.

- (4) Revoke, suspend, or cancel any permit which has been violated or which has been issued in violation of the zoning or building code ordinances or other applicable state or municipal law. Any revocation, suspension or cancellation shall be in writing and shall state the reasons therefore.
- (5) Provide clerical and other staff assistance required by the boards which are a part of or attached to this Department.
- (6) Provide data for the undertaking of studies of housing accommodations in the City in cooperation with the City Planning Commission or any other appropriate agencies.
- (7) Make or cause to be made inspections of substandard structures and authorize demolition of property when hazardous to the public health, safety, or welfare.
- (8) Recommend terms to be incorporated in any franchise, permit, or privilege to be granted by the City for issuance of Certificates of Public Necessity and Convenience for the regulation and supervision of all passenger vehicles for hire on the streets and other public places as provided by ordinance pursuant to Section 3-131(2) of the City Charter.
- (9) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Annotation: **4-702. Functions.** The duties herein described in sub-section (8) were formerly performed by the now dissolved Department of Utilities. (*See Ordinance No. 21,028 M.C.S.*)

Section 4-703. Board of Building Standards and Appeals.

- (1) **Composition.** There shall be attached to the Department a Board of Building Standards and Appeals to consist of five members who are domiciled in and electors of the City to be appointed by the Mayor with the approval of the Council. The Director of this Department shall not be a member of this Board.
- (2) **Functions.** The Board shall:
 - (a) Hear and determine appeals on all matters arising under ordinances or regulations pertaining to the design, construction, alteration and demolition of buildings.

- (b) Hear and determine appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of building regulations of the City.

Section 4-704. Examining and Licensing Boards.

The Board of Electrical Examiners, the Board of Mechanical Examiners and the Board of Examiners of Operating Engineers may be continued, and if continued, shall be a part of this Department. Such boards shall perform such functions assigned to them by ordinance relating to the issuance of permits for electricians, operating engineers, gas fitters and installers of mechanical equipment. These boards shall exercise only those powers germane to the performance of their duties and shall not exercise the general powers of department heads conferred upon other boards.

CHAPTER 8
DEPARTMENT OF SANITATION

Section 4-801. Functions

CHAPTER 8

DEPARTMENT OF SANITATION

Section 4-801. Functions.

The Department of Sanitation, headed by a Director of Sanitation, shall:

- (1) Provide for the collection and disposal of garbage and other refuse, either directly or by contract.
- (2) Provide for the management and operation of disposal facilities, either directly or by contract.
- (3) Clean the streets.
- (4) Enforce municipal, state, and federal laws and regulations for the keeping of streets, vacant lots and other places free from weeds and deleterious matter.
- (5) Enforce ordinances and state and federal laws and regulations involving solid waste.
- (6) Develop and implement integrated waste management plans.
- (7) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

CHAPTER 9
DEPARTMENT OF PUBLIC WORKS

Section 4-901. Functions

CHAPTER 9

DEPARTMENT OF PUBLIC WORKS

Section 4-901. Functions.

The Department of Public Works, headed by a Director of Public Works, shall:

- (1) Provide for the design, construction, paving, maintenance, and marking of streets, bridges, and related structures and approaches.
- (2) Supervise, regulate and control installations in, above or under streets.
- (3) Establish elevations and control grades of streets.
- (4) Collect and compile traffic data as directed by the Mayor or by ordinance; prepare engineering studies with regard to vehicular and pedestrian traffic as directed by the Mayor or by ordinance; prescribe regulations governing traffic and parking on streets and other public places; and determine the type, need, and location of all traffic control devices and markings and install, design, construct, operate, and maintain them.
- (5) Coordinate construction and maintenance projects with other departments, boards, and agencies of government and public utilities.
- (6) Coordinate or manage public works projects in the process of construction or acquisition and monitor their present status, the amounts spent or to be spent thereon, and the work required to complete each undertaking with a schedule for such completion.
- (7) Keep the Mayor, the Council, the Chief Administrative Officer, and the City Planning Commission informed as to the status of public construction and maintenance projects.
- (8) Recommend terms to be incorporated in contracts for supplying utility services for City buildings or facilities and for supplying street lighting services to the City and shall supervise performance under such contracts.
- (9) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Annotations: **Sec. 4-901. Functions.** The duties herein described in sub-section (8) were formerly performed by the now dissolved Department of Utilities. (*See Ordinance No. 21,028 M.C.S.*)

CHAPTER 10

DEPARTMENT OF RECREATION

*Historical Note: In accordance with Section 9-201 of the Home Rule Charter of the City of New Orleans, the Charter was amended following an election on Saturday, October 2, 2010, according to the terms set forth in Ordinance No. 23,998 M.C.S. The duties and responsibilities of the Department of Recreation as previously set forth in this section of the Home Rule Charter, have been assumed by the New Orleans Recreation Development Commission, as set forth in Article V, Chapter 10, Section 5-1001 through Section 5-1003 of the Home Rule Charter.

CHAPTER 11
DEPARTMENT OF HUMAN SERVICES

Section 4-1101. Composition

Section 4-1102. Functions

CHAPTER 11

DEPARTMENT OF HUMAN SERVICES

Section 4-1101. Composition.

The Department of Human Services shall be headed by a Director of Human Services, appointed by the Chief Administrative Officer to serve at the Chief Administrative Officers pleasure.

Section 4-1102. Functions.

The Department of Human Services shall:

- (1) Administer welfare and human services programs of the City.
- (2) Supervise and operate all social welfare and human services institutions of the City, except as may be otherwise be provided herein.
- (3) Cooperate with all other welfare and human services organizations and agencies.
- (4) Supervise the appropriations to any charitable institution utilized by the City for the care, maintenance and asylum of destitute persons and supervise contracts made by the City with such institutions.
- (5) Perform such other duties as are required by this Charter, provided by applicable state and municipal law, or assigned in writing by the Major.

CHAPTER 12

DEPARTMENT OF HEALTH

Section 4-1201. Composition

Section 4-1202. Functions

Section 4-1203. Powers

Section 4-1204. Health Officer

CHAPTER 12

DEPARTMENT OF HEALTH

Section 4-1201. Composition.

- (1) The Department of Health shall be headed by a Director of Health, to be appointed by the Chief Administrative Officer with the approval of the Mayor.
- (2) The Director shall have had at least five years experience in the administration of health programs in either the public or private sector, shall possess a degree in medicine or an advanced degree in nursing or public health, and shall possess such other qualifications as may be required of a health officer by applicable state law.

Section 4-1202. Functions.

The Department of Health, subject to applicable state and municipal law, shall:

- (1) Protect the health of the people of the City.
- (2) Enforce the State Sanitary Code.
- (3) Adopt and enforce local health and sanitary regulations.
- (4) Make such health inspections and examinations as may be required by law and, with the approval of the Council, institute and conduct programs of public health.
- (5) Investigate the causes and institute measures for the control of epidemic, preventable and communicable disease.
- (6) Operate or provide for emergency medical services.
- (7) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Section 4-1203. Powers.

The powers, duties and functions of the Department shall be as provided by applicable state and municipal law.

Section 4-1204. Health Officer.

The Chief Administrative Officer may appoint a health officer to serve in the Department of Health or in another Department designated by the Chief Administrative Officer. The health officer may be in the unclassified civil service in accordance with applicable state and municipal law, or the services of the health officer may be provided for by contract. The health officer shall possess a degree in medicine or an advanced degree in nursing or public health and shall possess such other qualifications as may be required of a health officer by applicable state and municipal law.

CHAPTER 13
DEPARTMENT OF FINANCE

Section 4-1301. Functions

Section 4-1302. Disposition of Disputed Claims

Section 4-1303. Board of Trustees of the Firemen's Pension and Relief Fund

Section 4-1304. Board of Trustees of the Police Pension Fund

Section 4-1305. Board of Trustees of the Municipal Employees' Retirement System

CHAPTER 13

DEPARTMENT OF FINANCE

Section 4-1301. Functions.

- (1) The Department of Finance, headed by the Director of Finance, shall:
 - (a) Collect all taxes, license and permit fees, and other moneys which may be due to or receivable by the City or any of its officers, departments, or boards; provided that where economy of administration or public convenience requires, the Director may by rule authorize the receipt of moneys directly by officers, departments or boards, or may assign employees of the Department to make such collections.
 - (b) Collect, when directed or authorized by law, all taxes, license and permit fees, and other moneys which may be receivable by the State or any public office, department or board not subject to the provision of this Charter.
 - (c) Sell property upon which taxes are not paid within the period prescribed by law.
 - (d) Prepare tax rolls and bills, including those required by state law.
 - (e) Issue receipts for moneys collected by the Department.
 - (f) Maintain the treasury of the City, and deposit the moneys belonging thereto in the depository banks to the credit of the proper funds.
 - (g) Contract for services to be rendered by independent contractors, and purchase materials, supplies and equipment. The Department shall, from time to time, secure from all officers, departments and boards estimates of their needs for articles of common use and shall, when practicable, consolidate requisitions in order to secure the benefits of quantity purchases, and to that end, when authorized by the Council, may cooperate with other public agencies when making such purchases.

- (h) Acquire immovable property upon the recommendations of the Department of Property Management and dispose of immovable property upon such recommendations when authorized by ordinance.
- (i) Dispose of movable property not needed by the City.
- (j) Keep accurate and complete accounts of all receipts and disbursements.
- (k) Maintain a perpetual inventory of all equipment owned or controlled by the City.
- (l) Permit no disbursements to be made except pursuant to authorizations adopted under the terms of this Charter or applicable State law.
- (m) Provide information pertaining to financial affairs of the City.
- (n) Maintain and supervise any central warehouse.
- (o) Prescribe, maintain and supervise the general and cost accounting systems for all officers, departments and boards.
- (p) Prepare all payrolls and pension rolls.
- (q) Approve all disbursements of funds held by the City.
- (r) Prepare the necessary assessment rolls for assessable public improvements, issue appropriate bills, assist in the issuance and servicing of indebtedness in connection therewith, and in the collection, custody and payment of all moneys in connection therewith.
- (s) Designate, subject to any conditions which may be imposed by ordinance, the banks to be used as City Depositories and require them to fulfill all conditions which the City may impose.
- (t) Recommend terms to be incorporated in any franchise, permit, or privilege to be granted by the City, except as noted in Section 4-702 (8) of this Charter.
- (u) Recommend rates and revisions thereof, to be charged by any public utility subject to regulations by the City.

- (v) Supervise and investigate, within lawful limits, the public utilities operating in the City for compliance with franchise or other privileges, rate orders, and any matter concerning the interests of the City or its residents with respect to the operations of public utility.
 - (w) Recommend to the Mayor that legal proceedings be instituted to secure compliance with any franchise granted by the Council and with the provisions of law relating thereto.
 - (x) Make public reports and recommendations to the Mayor on any matter concerning the interests of the City with respect to the operations of public utilities.
 - (y) Perform all other functions required by this Charter or assigned in writing by the Mayor.
- (2) The Director of Finance may require from any officer or employee of the City or any other person such sworn information as may be necessary for the proper performance of the functions of the Department.
 - (3) The Department of Finance may, at any reasonable time, inspect the books, papers, records, documents, materials, facilities, and plants, wherever located, of any public utility which is subject to the supervision, regulation, and control of the Council, and may require such written reports from such utility as it deems necessary and appropriate in the discharge of its duties and responsibilities as set forth in this Chapter and otherwise provided by law and all costs and expenses in connection therewith shall be borne by the public utility required to furnish or produce same.

Annotations: **Section 4-1301. Functions.** The duties herein described in sub-sections (t) through (x) of paragraph (1) and paragraph (3) were formerly performed by the now dissolved Department of Utilities. **(See Ordinance No. 21,028 M.C.S.)**

Section 4-1302. Disposition of Disputed Claims.

- (1) The Director of Finance shall execute no settlement of any disputed claim for any tax, license or debt due the city without the approval of the City Attorney and that of the Mayor or the Chief Administrative Officer.

- (2) The Director of Finance and the City Attorney, and either the Mayor or the Chief Administrative Officer, shall investigate all disputed claims against the City, and shall make recommendations to the Council for the payment or other disposition thereof.

Section 4-1303. Board of Trustees of the Firemen's Pension and Relief Fund.

The Board of Trustees of the Firemen's Pension and Relief Fund shall be attached to this Department.

Section 4-1304. Board of Trustees of the Police Pension Fund.

The Board of Trustees of the Police Pension Fund shall be attached to this Department, and the Director of Finance shall be a member of said Board.

Section 4-1305. Board of Trustees of the Municipal Employees' Retirement System.

- (1) **Retirement System and Board of Trustees.** The system shall be under the management of a Board of Trustees consisting of the Director of Finance, the Director of Personnel, one person who is domiciled in and an elector of the City elected by the employee members of the System, one person who is domiciled in and an elector of the City elected by the retiree members of the System, and one person who is domiciled in and an elector of the City appointed by the Mayor with the approval of the Council. The terms of the elected and appointed members shall be three years.
- (2) **Custody and Payment of Funds.** The Director of Finance shall be the Treasurer of the Municipal Employees' Retirement Fund and shall administer the Fund subject to the provisions of this Charter, and the direction of the Board of Trustees.
- (3) **Features of System.** The Council may by ordinance, and from time to time, change the Municipal Employees' Retirement System subject to the following limitations:
 - (a) An annual actuarial evaluation of the System shall be made in accordance with accepted standards for the actuarial valuation of the present and projected assets and liabilities of public employee retirement systems.

- (b) The System shall be maintained on a joint contributory basis by the City and the members of the System.
 - (c) Members of the System who cease to be employees of the City prior to retirement shall have the right to withdraw the contributions which have been made by them, together with interest which shall have been earned by their contributions.
 - (d) Should any amendment be made to the ordinance establishing the System which will have the effect of increasing the obligations of the City to the Fund, the City shall during the year in which the amendment is made and in each of the five years next ensuing, provide for payments by the City, in addition to its regular contributions, equal to the actuarial estimate of the City's share of the cost of benefits provided by such amendment, including one-twentieth of any accrued liability assumed by the City in such amendment.
- (4) The Council may provide by ordinance for a retirement policy based on age or other factors in accordance with applicable law.

CHAPTER 14
DEPARTMENT OF PROPERTY MANAGEMENT

Section 4-1401. Functions

Section 4-1402. Delgado Albania Plantation Commission

CHAPTER 14

DEPARTMENT OF PROPERTY MANAGEMENT

Section 4-1401. Functions.

The Department of Property Management, headed by the Director of Property Management, shall:

- (1) Maintain all buildings owned or operated by the City for a public purpose and perform all custodial functions in connection therewith; provided that where buildings are occupied exclusively by a single officer, department or board, the Director of Property Management, the Chief Administrative Officer or the Mayor may assign to the occupant responsibility for the performance of custodial functions in such buildings.
- (2) Manage and have custody of all immovable property in which the City has an interest, including all cemeteries owned by the City except where such management or custody has been otherwise assigned by this Charter, by contract, or by ordinance.
- (3) Make recommendations to the Director of Finance concerning the leasing, acquisition or disposition of immovable property.
- (4) Assign space to the officers, departments and boards in City buildings.
- (5) Award all concessions on City property subject to requirements which may be imposed by ordinance.
- (6) Maintain a complete and accurate record of the ownership of all immovable property situated in the City, and of all immovable property of the City wheresoever located. The public records of the department shall include a perpetual index, maintained apart from all other records, listing and briefly describing all corporeal and incorporeal immovable property owned or controlled by the City or agencies of the City, including unattached boards and public benefit corporations. The index shall be designed for ease and efficiency of use by the public.
- (7) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Section 4-1402. Delgado Albania Plantation Commission.

- (1) **Composition.** There shall be attached to the Department of Property Management the Delgado Albania Plantation Commission. The Commission shall consist of five persons domiciled in and electors of the City who shall have had experience in the management and operation of sugar plantations or related activities. The Director of Finance shall be an ex-officio member of the Commission. The Mayor shall appoint the members with the approval of the Council for terms of five years, so arranged that the term of one member shall expire each year.
- (2) **Functions.** The Commission shall:
 - (a) Provide for the administration, operation and maintenance of the Delgado Albania Plantation.
 - (b) See that all expenditures authorized for the operation, maintenance and development of the plantation are made in accordance with the provisions of this Charter.
 - (c) Have authority, with the approval of the Council, to borrow money to produce crops, and mortgage and pledge as security thereof, the crops and chattels of said plantation.
 - (d) Transmit annually to the Board of City Trusts for the account of the Delgado Community College and its successor such portion of the income of the plantation as may be fixed by the Council.
- (3) **Manager.** The Commission may appoint a manager who shall be its executive officer and who shall serve as its pleasure.

CHAPTER 15
DEPARTMENT OF CITY CIVIL SERVICE

Section 4-1501. Composition

Section 4-1502. Purpose of Department

Section 4-1503. Functions

Section 4-1504. Prohibitions

Section 4-1505. Duration

CHAPTER 15

DEPARTMENT OF CITY CIVIL SERVICE

Section 4-1501. Composition.

The Department of City Civil Service shall consist of a City Civil Service Commission, a Director of Personnel, and an executive staff as provided by applicable State law.

Section 4-1502. Purpose of Department.

The purpose of this Department shall be as provided by applicable State law and to guarantee to all citizens a fair and equal opportunity for public service under the merit system.

Section 4-1503. Functions.

The functions of the Department shall be as provided by applicable State law, and when consistent therewith, the Council and executive officers of the City may impose additional functions upon the Department by ordinance or rule.

Section 4-1504. Prohibitions.

- (1) **Party Membership; Elections.** No member of the commission and no officer or employee in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office, except by seeking nomination as the classified city employee serving on the commission; be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party, faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise the right as a citizen to express an opinion privately, to serve as a commissioner or official watcher at the polls, and to vote as desired.

- (2) **Contributions.** No person knowingly shall solicit contributions for political purposes from any classified employee or official or use or attempt to use a position in the city service to punish or coerce the political action of a classified employee.
- (3) **Political Activity Defined.** As used in this Article, “political activity” means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The support of or opposition to issues involving bonded indebtedness, tax referenda, or constitutional amendments shall not be prohibited.

Section 4-1505. Duration.

Should the State cease to provide for a system of personnel administration applicable to the City, the provisions of Article VIII of this Charter shall immediately become operative.

CHAPTER 16

DEPARTMENT OF UTILITIES

Section 4-1601. Functions

Section 4-1602. Inspections and Reports

CHAPTER 16

DEPARTMENT OF UTILITIES

*Historical Notes: In accordance with Section 9-201(2) and Section 4-105 of the Home Rule Charter of the City of New Orleans, Executive Order CRN-02-05 was issued and Ordinance No. 21028 M.C.S. was adopted by the City Council, dissolving the Department of Utilities. Its duties and responsibilities, as previously set forth in this chapter of the Home Rule Charter, have been assumed by the Departments of Finance, Safety and Permits and Public Works.

Section 4-1601. Functions.

- (1) The Department of Utilities, headed by a Director of Utilities, shall:
 - (a) Recommend terms to be incorporated in any franchise, permit, or privilege to be granted by the City.
 - (b) Recommend rates, and revisions thereof, to be charged by any public utility subject to regulation by the City.
 - (c) Supervise and investigate, within lawful limits, the public utilities operating in the City for compliance with franchise or other privileges, rate orders, and any matter concerning the interests of the City or its residents with respect to the operations of public utilities.
 - (d) Recommend to the Mayor that legal proceedings be instituted to secure compliance with any franchise granted by the Council and with the provisions of law relating thereto.
 - (e) Make public reports, and recommendations to the Mayor, or any matter concerning the interests of the City with respect to the operations of public utilities.
 - (f) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

- (g) Recommend terms to be incorporated in contracts for supplying utility services for City buildings or facilities and for supplying street lighting services to the City and shall supervise performance under such contracts.

Section 4-1602. Inspections and Reports.

The Department may, at any reasonable time, inspect the books, papers, records, documents, materials, facilities, and plants, wherever located, of any public utility which is subject to the supervision, regulation, and control of the Council, and may require such written reports from such utility as it deems necessary and appropriate in the discharge of its duties and responsibilities as set forth in this Chapter and otherwise provided by law and all costs and expenses in connection therewith shall be borne by the public utility required to furnish or produce same.

CHAPTER 17
DEPARTMENT OF PARKS AND PARKWAYS

Section 4-1701. Functions

CHAPTER 17

DEPARTMENT OF PARKS AND PARKWAYS

Section 4-1701. Functions.

The Department of Parks and Parkways, headed by a Director, shall:

- (1) Administer, control and manage all parks, except as otherwise provided by applicable state or municipal laws.
- (2) Cultivate, place, maintain and remove trees, shrubs, flowers, grass and other plants on public grounds.
- (3) Embellish parks, parkways, highways and other public grounds.

*Historical Notes: **Section 4-1701. Functions.** The duty previously described in subsection (4) were reassigned to the New Orleans Recreation Development Commission effective January 1, 2011.

CHAPTER 18

BOARD OF CITY TRUSTS

Section 4-1801. Composition

Section 4-1802. Powers

Section 4-1803. Limitations

Section 4-1804. Standard of Performance

Section 4-1805. Lease and Sale of Property

Section 4-1806. Preservation of Existing Trusts

CHAPTER 18

BOARD OF CITY TRUSTS

Section 4-1801. Composition.

The Board of City Trusts shall consist of the Mayor, the President of the Council, the Director of Finance who shall be its Treasurer, and eight electors who shall be domiciled in the City appointed by the Mayor with the approval of the Council for terms of eight years, so arranged that the term of one member shall expire each year. The eight members shall be appointed two each from the professions of investment banking, law, and accounting and two at large.

Section 4-1802. Powers.

The Board shall:

- (1) Safeguard and administer the investment of all money and other movable property and administer all revenue producing immovable property:
 - (a) Held by the City as trustee or otherwise for public or charitable purposes.
 - (b) Held by the City for the perpetual care of plots in City owned cemeteries.
- (2) Maintain the immovable property under its jurisdiction through prudent expenditure of the revenues thereof or, with the approval of the Council, through other means.
- (3) Adopt as a regulation an investment list that fulfills the standards of prudence then applicable to private trusts.
- (4) Recommend to the Mayor and the Council the acceptance or rejection of any trust or conditional donation offered to the City. The Mayor may agree to follow such recommendations only upon the affirmative vote of a majority of the members of the Council. The Mayor may decline to follow such recommendations, only upon the affirmative vote of two-thirds of the members of the Council. Such recommendations shall not be required for the acceptance of donations of movable property if the only conditions are that the movable be used or consumed for a designated purpose or

by a designated agency.

- (5) Supervise the maintenance by the Director of Finance of appropriate separate accounts for each trust fund and each trust proceeds fund.
- (6) Authorize withdrawals from trust funds and trust proceeds funds only upon certification in writing made by the officer, department or board entitled thereto of the purpose of such withdrawal and that it is to be used in accordance with the terms and conditions specified in the trust or conditional donation, If the Board and the beneficiary disagree, the Mayor shall procure a written opinion from the City Attorney which shall be binding upon both the Board and the beneficiary.
- (7) Advise the Mayor and Council on all matters relevant to the execution, disposition or modification of trusts and conditional donations.
- (8) Review periodically all trusts and conditional donations and recommend to the Council the advisability of abandoning any or all of them.

Section 4-1803. Limitations.

The City shall not:

- (1) Accept any conditional donation which is contrary to the constitution, the statutes, this Charter, municipal ordinances or the regulations adopted by the Board.
- (2) Continue to operate a going business as a permanent investment donated to the City for public purposes or in trust, unless expressly required to do so by the terms of the donation.
- (3) Make or hold investments not included in the Board's investment list, except property of the original trust or donation, or required thereby to be acquired.
- (4) Modify any trust except upon approval of the Council and, when necessary, a court of proper jurisdiction.

Section 4-1804. Standard of Performance.

The members of the Board shall be held to the standards of a prudent administrator.

Section 4-1805. Lease and Sale of Property.

Immovable property under the jurisdiction of the Board shall be leased or sold only in accordance with the provisions of this Charter.

Section 4-1806. Preservation of Existing Trusts.

If any trusts or conditional donations would by their terms revert to the settler, donor, or other persons as a result of any provisions of this Charter, then such provisions shall be suspended as to such trusts and donations.

CHAPTER 19
CENTRAL BUSINESS DISTRICT
HISTORIC DISTRICT LANDMARKS COMMISSION

Section 4-1901. Composition

Section 4-1902. Functions

CHAPTER 19

**CENTRAL BUSINESS DISTRICT
HISTORIC DISTRICT LANDMARKS COMMISSION**

Section 4-1901. Composition.

The Commission shall consist of eleven electors who are domiciled in the City, appointed by the Mayor subject to the approval of the Council for terms of four years organized on a staggered basis, or may be organized as otherwise provided by ordinance of the Council.

Section 4-1902. Functions.

The Commission shall:

- (1) Promote Central Business District historic districts and landmarks for the educational, cultural, economic, and general welfare of the public, especially the residents of New Orleans.
- (2) Assist in preserving, protecting, and regulating buildings, sites, monuments, structures, and districts of historic interest or importance within the Central Business District of New Orleans.
- (3) Assist in preserving and enhancing the environmental quality of the Central Business District.
- (4) Establish and improve property values through support of preservation activities.
- (5) Foster economic development and encourage balanced growth.

CHAPTER 20

NEW ORLEANS HISTORIC DISTRICT LANDMARKS COMMISSION

Section 4-2001. Composition

Section 4-2002. Functions

CHAPTER 20

NEW ORLEANS HISTORIC DISTRICT LANDMARKS COMMISSION

Section 4-2001. Composition.

The New Orleans Historic District Landmarks Commission shall consist of nine to fifteen electors who are domiciled in the City, appointed by the Mayor subject to the approval of the Council for terms of four years so arranged that the term of two to four members shall expire each year, or may be organized as otherwise provided by ordinance of the Council. For each historic district created by ordinance of the Council, at least one member of the Commission shall be appointed who is a resident or who owns property in the district.

Section 4-2002. Functions.

The Commission shall:

- (1) Promote historic districts and landmarks for the educational, cultural, economic, and general welfare of the public.
- (2) Assist in preserving, protecting, and regulating buildings, sites, monuments, structures, and districts of historic interest or importance within the City.
- (3) Assist in preserving and enhancing the environmental quality of neighborhoods.
- (4) Establish and improve property values through support of preservation activities.
- (5) Foster economic development and manage growth.

CHAPTER 21

NEW ORLEANS MOSQUITO CONTROL BOARD

Section 4-2101. Composition

Section 4-2102. Functions

CHAPTER 21

NEW ORLEANS MOSQUITO CONTROL BOARD

Section 4-2101. Composition.

The New Orleans Mosquito Control Board shall consist of one councilmember selected by the Council, the Mayor or a representative designated by the Mayor, the Director of the Department of Health, the Director of the Department of Parks and Parkways and six other electors domiciled in the City, who shall be appointed by the Mayor with the approval of the City Council and who shall serve six year terms, provided that the terms shall be so arranged that the term of one member shall expire each year. There shall be at all times not less than one qualified entomologist on the Board.

Section 4-2102. Functions.

The Board shall:

- (1) Administer and evaluate mosquito control activities.
- (2) Monitor the populations of disease and virus transmitting mosquitoes and consult with appropriate authorities.

ARTICLE V
EXECUTIVE BRANCH -
UNATTACHED BOARDS AND COMMISSIONS

- Chapter 1. Board of Liquidation, City Debt
- Chapter 2. Public Belt Railroad Commission
- Chapter 3. Sewerage and Water Board
- Chapter 4. City Planning Commission
- Chapter 5. Public Library Board
- Chapter 6. New Orleans Aviation Board
- Chapter 7. Vieux Carré Commission
- Chapter 8. Audubon Commission
- Chapter 9. New Orleans Alcoholic Beverage Control Board
- Chapter 10. New Orleans Recreation Development Commission

CHAPTER 1
BOARD OF LIQUIDATION, CITY DEBT

Section 5-101. Composition

Section 5-102. Functions

CHAPTER 1

BOARD OF LIQUIDATION, CITY DEBT

Section 5-101. Composition.

- (1) The Board of Liquidation, City Debt, shall be composed of six members and of three ex-officio members, who shall be the Mayor and the two councilmembers-at-large.
- (2) Effective on January 1, 1996, the terms of the six citizens serving on the Board shall change from terms for life to fixed terms. The members shall conduct a drawing to determine who shall serve for terms of two, four, six, eight, ten, and twelve years. Upon the expiration of a term, a Board member who is domiciled in and an elector of the City shall be appointed by the Mayor with the approval of the Council from a list of three names submitted jointly by a committee consisting of the President of the Board of Liquidation, who shall chair the committee, and the Presidents or Chancellors of Dillard University, Loyola University, Southern University of New Orleans, Tulane University, the University of New Orleans, and Xavier University. Members so appointed shall serve for terms of twelve years. Any vacancy on the Board shall be filled in accordance with the provisions of Section 9-105 of this Charter.

Section 5-102. Functions.

Except as otherwise provided in this Charter, the Board of Liquidation, City Debt shall continue to exercise and have the powers, duties, and functions which it exercised on the effective date of this Charter. It shall have the power to issue bonds in any manner permitted by state or municipal law and this Charter and to manage its affairs, under this Charter on behalf of the City of New Orleans, in accordance with the provisions of applicable state or municipal law.

CHAPTER 2

PUBLIC BELT RAILROAD COMMISSION

Section 5-201. Composition

Section 5-202. Functions

CHAPTER 2

PUBLIC BELT RAILROAD COMMISSION

Section 5-201. Composition.

The Public Belt Railroad Commission shall be composed of the Mayor, who shall be ex-officio president, and sixteen citizen taxpayers who are domiciled in and electors of the City of New Orleans as provided by law.

Section 5-202. Functions.

The Commission shall have such powers, duties and functions as are provided by law.

CHAPTER 3

SEWERAGE AND WATER BOARD

Section 5-301. Organization

Section 5-302. Functions

Section 5-303. Privatization

CHAPTER 3

SEWERAGE AND WATER BOARD

Section 5-301. Organization.

The Sewerage and Water Board in existence at the adoption of this Charter shall be continued. The Board shall be composed of the Mayor; one at large member of the Council and two other councilmembers, all selected by the Council; two members of the Board of Liquidation, City Debt; and seven citizens who are domiciled in and electors of the City appointed as provided by applicable state and municipal law.

*Historical Annotation: This section was amended effective January 1, 2011, pursuant to the provisions of R.S. 33:4072 and the amendment approved by the election on Saturday, October 2, 2010.

Section 5-302. Functions.

The powers, duties and functions of the Sewerage and Water Board are provided by applicable state and municipal law. The Board shall coordinate its repair, maintenance, and construction projects with City agencies, including the City Planning Commission and the Departments of Public Works and Parks and Parkways, in order to minimize disruption of the City's streets, sidewalks, and other public spaces.

Section 5-303. Privatization.

- (1) Before any contract(s) relating to privatization of any Sewerage and Water Board management or administrative function, drainage, sewer, or water operation may be validly executed, a decision to enter into any such contract(s) must be first approved by a majority of the electors of the City voting on the matter at an election which shall be called by the Council as follows: After approval by the Sewerage and Water Board but before execution of any such proposed privatization contract(s), the Council shall provide by ordinance that the proposed contract shall be published at length in the official journal not less than sixty days prior to the election, and shall be submitted to the electors of the City at the first available election for members of Congress, Mayor of New Orleans, or Governor of

Louisiana, if the date of such election is not less than ninety days after the effective date of such ordinance, or at a special election called for that purpose, the date of which shall be held on the first available election date not less than ninety days after the effective date of the ordinance. The foregoing is not applicable to any such proposed privatization contract(s) valued at \$5,000,000.00 (year 2001 U.S. dollars) or less.

- (2) The decision to enter into any such contract(s) for privatization approved by a majority of the electors of the City voting on same shall become effective at the time and under the conditions fixed in the proposed privatization contract(s) so approved by a majority of electors.

Annotation: Act No. 768 of the 2003 Regular Session of the State Legislature, which amended R.S. 33:4159.10, established procedures for privatization of public sewerage and water drainage or water disposal or treatment facilities in municipalities having a population in excess of four hundred seventy-five thousand, in accordance with the most recent federal decennial census. The provisions of this act are consistent with this provision of the charter.

CHAPTER 4

CITY PLANNING COMMISSION

Section 5-401. Creation and Composition

Section 5-402. Functions

Section 5-403. Director and Staff

Section 5-404. Master Plan

Section 5-405. Planned Street Lines and the Official Map

Section 5-406. Zoning Ordinance

Section 5-407. Approval of the Commission

Section 5-408. Board of Zoning Adjustments

Section 5-409. Orientation and Continuous Education Training for Planning
Commission and Board of Zoning Adjustments Members

Section 5-410. Other Functions

Section 5-411. Neighborhood Participation

Section 5-412. Definitions

CHAPTER 4

CITY PLANNING COMMISSION

Section 5-401. Creation and Composition.

The City Planning Commission shall consist of nine members who are electors of and domiciled in the City, appointed by the Mayor with the approval of the City Council for a term of nine years, staggered so that the term of one member shall expire each year.

Annotation: Pursuant to the provisions of Section 10 of Ordinance No. 23,141 M.C.S., this section as written became effective on Tuesday, November 4, 2008.

Section 5-402. Functions.

The City Planning Commission shall:

- (1) Prepare, adopt, amend, and recommend to the Council a twenty year Master Plan for the physical development of the City consistent with the requirements of Section 5-404. The Master Plan shall consist of a statement of development goals, objectives, and policies for the physical growth and development of the City, and shall include maps and a text setting forth principles, standards, and proposals. The Master Plan shall include, but not be limited to, the following elements: Vision, Goals, and Policy; Land Use; Transportation; Housing; Community Facilities and Infrastructure; and Historic Preservation. The elements are to be interrelated with each other and shall provide the overall guidance for city policy and priorities. The Land Use element shall consist of text setting forth land use issues and policies, and a Future Land Use Map setting forth categories of allowable uses and density, for the City. The entire area of the City shall be addressed within the Master Plan, as well as those land areas outside of the Parish of Orleans under the control or ownership of the City.
- (2) Prepare, adopt, amend and modify regulations governing the subdivision of land, including platting and replatting, which regulations shall provide for the proper arrangement of streets and public utilities; open spaces for light, air and recreational areas; space for vehicular parking; the sizes and shapes of lots in order to avoid congestions of population and to provide for the amenities of human habitation; and the manner and extent to

which streets shall be paved and public utilities installed in such subdivisions, consistent with the provisions of this Charter.

- (3) Prepare and recommend to the Council, all to be consistent with the Master Plan:
 - (a) Plats, together with revisions and amendments thereof, showing the exact location of lines of recommended new, extended, widened, or narrowed streets, and the estimated time within which the land needed for future street development as shown on the plat.
 - (b) The Official Map of the City and amendments thereto, upon which shall be shown all existing and established streets, recommended street lines, all streets or street lines located on final or recorded plats of subdivisions, and the location of existing or planned parks and other open spaces. Street locations on final or recorded plats of subdivisions shall constitute amendments to the Official Map and shall be placed thereon.
 - (c) A zoning ordinance and revisions and amendments thereof for the purpose of promoting the public health, safety, aesthetics, and general welfare of the City, and implementing the Master Plan, which ordinance may contain regulations with respect to the location, height, bulk, size of buildings and other structures; the size of yards, courts, and other open spaces; the density of population; and the use of buildings, structures and land for trade, industry, business, residence, or other purposes. The zoning ordinance shall include an official Zoning Map, and the ordinance and the map may be periodically amended by the City Council provided any amendments are consistent with the Master Plan in accordance with Section 5-404 (3). The text, diagrams and maps in the Land Use Element of the Master Plan that address the location and extent of future land uses, and the zoning ordinance that implements those provisions, may also address urban form and design. They may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and building types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets, sidewalks, and other right of ways.
 - (d) Plans for the clearance of slum areas, public housing developments, and the rehabilitation or redevelopment of blighted areas.

- (e) Plans for the replanning, improvement, and reconstruction of neighborhood and community centers and of areas or districts destroyed or seriously damaged by fire, earthquake, hurricane, flood or other disaster.
 - (f) Such other studies as may be requested or directed by the Council.
- (4) Prepare the capital improvement plan and assist the Chief Administrative Officer in the preparation of the annual capital budget. The capital improvement plan and the capital budget shall be consistent with the Master Plan.
 - (5) Prepare such studies as may be requested by the Mayor.

Section 5-403. Director and Staff.

The City Planning Commission may appoint a Director who shall serve at its pleasure. The Director shall be the executive officer of the Commission and shall be responsible for the supervision of the staff. The Commission may, subject to the provisions of this Charter, appoint such employees as it may deem necessary and may contract with planning experts, engineers, architects and other consultants for such services as it may require.

Section 5-404. Master Plan.

- (1) **Preparation of the Master Plan.** The City Planning Commission shall prepare the Master Plan. Prior to completion of the Master Plan, the Commission shall hold at least one public meeting for each planning district or other designated neighborhood planning unit to solicit the opinions of citizens that live or work in that district or planning unit; it shall also hold at least one public hearing to solicit the opinions of citizens from throughout the community. In addition, it shall take affirmative steps to involve neighborhoods in master planning activities and comply with the requirements of any neighborhood participation program that the City, pursuant to Section 5-411, shall adopt by ordinance. Each public hearing or meeting shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days in advance. Upon completion of the public meetings and hearing(s) and completion of the Master Plan, and following the adoption of the plan by resolution, the Commission shall forward the Master Plan to the City Council for adoption by ordinance. Within ninety (90) days of its receipt, the Council shall adopt the Master Plan, reject it, or propose modification. If it rejects the plan, or

proposes any modification, the Council shall refer it to the Commission for public hearing and comment. The City Planning Commission shall consider and provide a recommendation to the City Council on the rejection or modification within (60) sixty days of receipt from the City Council. The Council shall take final action within (45) days of receipt of the recommendation from the City Planning Commission. Should the City Council fail to act on the Master Plan as required by this section after its submission by the Planning Commission, or after a resubmission by the Commission after the Council has modified or rejected the Plan, the Master Plan initially submitted to the Council by the Commission shall be deemed adopted by the Council. Following the adoption by the City Council of that part of the Master Plan relating to the Major Street Plan, the Commission shall by resolution adopt and may so modify or extend regulations governing the subdivision of land.

- (2) **Publication and Filing.** Upon adoption by the Council, certified copies of the plan and regulations and the ordinances by which they were adopted shall be filed with the Clerk of Council and with such offices as may be required by applicable state or municipal law. Regulations governing the subdivision of land shall be published once after adoption in the official journal.
- (3) **Legal Effects of Master Plan.**
 - (a) Following adoption of the Master Plan, no public project or facility and no public utility, whether publicly or privately owned, shall be authorized or significantly altered except in conformity with the adopted Master Plan.
 - (b) The Master Plan prepared by the Commission and adopted by the Council shall include as a part of the Land Use Element a table specifying the relationship between the land use designation and the zoning classification included in the Land Use Element of the Master Plan and reflected on the Future Land Use Map. The comprehensive zoning ordinance shall be simultaneously amended to include said table. Said table shall be amended, or updated as required, to accommodate amendments, or revisions, to the comprehensive zoning ordinance or Land Use Element of the Master Plan.
 - (c) All land development regulations and amendments thereto, including amendments to the zoning ordinance and the zoning map, as well as all other Land Use Actions, including but not limited to, preliminary or final approval of a subdivision plan; site plan; approval of a planned unit development, or similar site

specific development plan; approval of conditional use; granting of a variance, or a decision by local government to construct a capital improvement; and/or acquire land or community facilities, including transportation facilities, shall be consistent with the Master Plan adopted by the City Council.

(d) A Land Use Action is consistent with the Master Plan if the Land Use Action:

- (1) Furthers, or at least does not interfere with, the goals, policies, and guidelines, including design guidelines, that are contained in the Land Use Element of the Master Plan.
- (2) Is compatible with the proposed future land uses, densities, and intensities designated in the Land Use Element of the Master Plan.

(4) **Mandatory Review.** At least once every five years, but not more often than once per calendar year, and at any time in response to a disaster or other declared emergency, the Commission shall review the Master Plan and shall determine, after one or more public hearings, whether the plan requires amendment or comprehensive revision. If amendment or comprehensive revision is required, the Commission shall prepare and recommend amendments or comprehensive revisions and readopt the plan in accordance with the procedures of this section. The Commission shall hold at least one public meeting for each planning district or other designated neighborhood planning unit affected by amendments or revision in order to solicit the opinions of citizens that live or work in that district or planning unit; it shall also hold at least one public hearing to solicit the opinions of citizens from throughout the community. In addition, it shall comply with the requirements of any neighborhood participation program that the City, pursuant to Section 5-411, shall adopt by ordinance. Each public hearing or meeting shall be duly advertised in a newspaper of general circulation at least fifteen (15) but not more than (45) forty-five days in advance. Upon completion of the public hearings and meetings and following the adoption by resolution of the amendment or comprehensive revision, the Commission shall forward the amendment or revision to the City Council for adoption by ordinance. Within ninety (90) days of its receipt, the Council shall adopt the amendment or revision to the Master Plan, reject the amendment or revision, or propose modification. If it proposes any modification, the Council shall refer it to the Commission for public hearing and comment. The City Planning Commission shall consider and provide a recommendation to the City Council on the modification within sixty (60) days of receipt from the City Council. The City Council shall take final action on the proposed

amendment or revision within forty-five (45) days of receipt of the recommendation from the City Planning Commission.

- (5) **Legal Effect of Subdivision Regulations.** All proposed subdivisions of land to be made after the adoption of the regulations governing subdivision of land shall be submitted to the Commission for its approval for conformity with the subdivision regulations, and Master Plan, and no such proposed subdivision shall be made or recorded unless approved by the Commission. Approval of a plat of a subdivision shall not be deemed an acceptance by the City of any street or other open space shown on the plat.
- (6) The City shall make adequate appropriations to the Commission to implement the mandate of this section.

Section 5-405. Planned Street Lines and the Official Map.

The Council, upon recommendation of the Commission, and consistent with the Master Plan, may by ordinance do the following:

- (1) **Adoption.** The Council, upon the recommendation of the Commission, may by ordinance adopt:
 - (a) Plats showing the exact location of planned or mapped lines of street widenings and extensions or of future streets.
 - (b) An Official Map showing all public streets then existing and established by law; all planned streets or street lines previously adopted under this Section; all streets or street lines as located on final or recorded plats of subdivisions as previously approved by the Commission; and all existing or planned parks and other public open spaces.
- (2) **Notice to Owner of Record.** No plat showing the location of a planned or mapped street shall be adopted before Notice shall have been sent by registered mail to the owners of record of the land on or abutting the future street lines designated upon the plat.
- (3) **Legal Effect.**
 - (a) Upon the adoption of any plat showing the location of a planned or mapped street, the owners of the property within the lines of such planned or mapped street shall for the period specified in the ordinance be prohibited from erecting any structure within such

lines. The owner of any property so affected shall be entitled to appeal to the Board of Zoning Adjustments under the same procedure described for appeals in zoning cases.

- (b) After the adoption of the Official Map or any plat showing the lines of planned or mapped streets, no change in any street shall be made by the Council until such proposed change shall have been submitted to the Commission for its approval or disapproval for conformity with the Official Map. Pending the adoption of the Official Map, the Council shall not vacate, narrow, or extend any existing street without having secured the approval of the Commission thereon.
- (c) The adoption of any plat showing the location of a planned or mapped street or the placing of any street or street line on the Official Map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land for street purposes.
- (4) **Amendment of Official Map.** New streets and street locations on recorded plats of subdivisions as approved by the Commission or on plats adopted by the Council shall be forthwith placed upon the Official Map as additions or modifications thereto, when the Council accepts the dedication of the streets and street locations shown thereon. Other amendments to the Official Map may be made by the Council at any time after having secured the advice of the Commission.

Section 5-406. Zoning Ordinance.

- (1) Except when adopted pursuant to a zoning plan proposed and recommended by the Commission, the City Council shall refer all proposed zoning ordinances and amendments to the Commission for its recommendations. Any zoning ordinance or amendments adopted by the Council must be consistent with the Master Plan. Inconsistent ordinances and amendments shall be null and void as provided by Sec. 5-404 (3)(c).
- (2) Prior to making recommendations on any zoning ordinance or amendment thereto, and prior to adopting regulations governing the subdivision of land, the Commission shall hold a public hearing thereon at which interested persons shall be afforded a reasonable opportunity to be heard. Notice of the time and place of the hearing shall be published at least three times in the official journal.

- (3) Simultaneous with any amendment to the Master Plan, the Commission shall review the comprehensive zoning ordinance and shall determine, after one or more public hearings, whether the ordinance requires revision and amendment.
- (4) The City shall make adequate appropriations to the Commission to implement the mandate of this section.

Annotation: Pursuant to the provisions of Section 10 of Ordinance No. 23,141 M.C.S., this section as written became effective on Tuesday, November 4, 2008.

Section 5-407. Approval of the Commission.

When under this Charter the approval of the Commission is required of any proposal, the approval shall be by the affirmative vote of a majority of the members of the Commission. Should the Commission fail to act within ninety (90) days of the submission of the proposal to the Director of the Commission, its approval shall be presumed unless the person, governing authority, office, department, board or commission submitting the proposal shall agree to a longer period of time for consideration by the Commission. In the case of amendments to the zoning ordinance, the Commission shall report its findings within a reasonable period of time, to be fixed by ordinance, without a presumptive approval being granted.

Section 5-408. Board of Zoning Adjustments.

- (1) **Composition.** There shall be attached to the Commission a Board of Zoning Adjustments to consist of seven members who shall be domiciled in and electors of the City, appointed by the Mayor with the approval of the Council for a term of five years, staggered so that the term of one or two members shall expire each year. Neither the Director nor any member of the Commission shall be a member of the Board. The Mayor may, by Executive Order approved by the Council in accordance with the procedures established in Section 9-201 (2) of this Charter, reassign or attach the functions of the Board to another department or board within the Executive Branch.
- (2) **Functions.** The Board shall:
 - (a) Hear and determine appeals from applicants who have been refused building permits because of a violation or conflict with the zoning ordinance or the official map of the City.
 - (b) Hear and decide appeals where error is alleged in any order,

requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance of the City.

- (c) Have the power to permit variations from the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, and procedures specified in and subject to the limitations imposed by the zoning ordinances of the City.

Annotation: Pursuant to the provisions of Section 10 of Ordinance No. 23,141 M.C.S., this section as written became effective in November 2008.

Section 5- 409. Orientation and Continuous Education Training for Planning Commission and Board of Zoning Adjustments Members.

- (1) **Training.** Each Planning Commission and Board of Zoning Adjustments member shall attend a minimum of six hours of orientation training concerning the duties and responsibilities of the Planning Commission, or Board of Zoning Adjustments, either prior to taking office or no later than one year after office is assumed. All training shall be approved by, and under the supervision of, the City Planning Commission.
- (2) **Continuing education.** All members of the City Planning Commission and the Board of Zoning Adjustments shall receive within each calendar year at least six hours of continuous education in any of the subjects listed in subsection (3) of this section. All training shall be approved by, and under the supervision of, the City Planning Commission.
- (3) **Education subjects.** The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following: land use, land use planning, land use law, zoning, transportation, community facilities, historic preservation, ethics, public utilities, parliamentary procedure, public hearing procedure, economic development, housing, public buildings, land subdivision, and powers and duties of the Planning Commission and Board of Zoning Adjustments.
- (4) **Removal from Position.** Members of the Planning Commission and Board of Zoning Adjustments shall be subject to removal by a majority vote of the members of their respective Commission or Board if they fail to complete the requisite number of hours of orientation training and continuing education within the time allotted in this section.

- (5) **Validity of Decisions.** A failure of one or more members of the Planning Commission or Board of Zoning Adjustments to complete the orientation training or continuing education requirements shall not effect, impact, or invalidate a decision of the Commission or Board.

Section 5-410. Other Functions.

Functions not specifically assigned to the Commission by this chapter may be assigned to the Commission or reassigned by an Executive Order of the Mayor approved by the Council in accordance with the procedures established in Section 9-201(2) of this Charter.

Section 5-411. Neighborhood Participation.

The City shall establish by ordinance a system for organized and effective neighborhood participation in land use decisions and other issues that affect quality of life. It shall provide for timely notification to a neighborhood of any proposed Land Use Action affecting the neighborhood; it shall also provide the opportunity for meaningful neighborhood review of and comment on such proposals. In addition, it shall provide the opportunity for meaningful neighborhood participation in the formulation of the Master Plan or any amendment thereto.

Annotation: Pursuant to the provisions of Section 10 of Ordinance No. 23,141 M.C.S., this section as written became effective in May 2010.

Section 5-412. Definitions.

For purposes of this Article:

“Future Land Use Map” means a map in the Land Use Element of the Master Plan that sets forth categories of allowable land uses and density for the purpose of directing the future development and redevelopment of private and public property in the City

“Land Use Action” means the preliminary or final approval of a zoning map amendment, a zoning ordinance text change, subdivision plat, site plan, planned unit development, or conditional use; the granting of a variance, adoption of a development agreement, or issuance of a certificate of appropriateness; a decision by the City or any of its administrative authorities to construct a capital improvement, acquire land for community facilities, including transportation facilities, or for redevelopment. Approval as used in this paragraph includes approval subject to conditions.

“Zoning Map” means the Official Zoning District Maps adopted with the New Orleans Comprehensive Zoning Ordinance, setting forth the boundaries of each land use designation and showing authorized land uses and densities for such uses within each designated area.

Annotation: Pursuant to the provisions of Section 10 of Ordinance No. 23,141 M.C.S., Sections 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-409, 5-410 and 5-412 of this chapter became effective thirty-six months from the date of the election on these amendments (Tuesday, November 4, 2008), or once the Master Plan and the Comprehensive Zoning Ordinance under revision at that time are completed and adopted by the City Planning Commission, whichever is sooner.

CHAPTER 5

PUBLIC LIBRARY BOARD

Section 5-501. Composition

Section 5-502. Functions

Section 5-503. Librarian

CHAPTER 5

PUBLIC LIBRARY BOARD

Section 5-501. Composition.

The Public Library Board shall consist of electors who are domiciled in the City and who shall be appointed by the Mayor with the approval of the Council for terms of nine years, so arranged that the term of one member shall expire each year.

Section 5-502. Functions.

The Board shall:

- (1) Control and provide for the administration of the libraries, reading rooms, bookmobiles and related facilities.
- (2) Purchase directly or through the Department of Finance books, pamphlets, films, maps, recordings, periodicals, prints and pictures, computer hardware, software, and such materials, equipment, and other property as may be necessary for the performance of its functions.
- (3) Develop library facilities to serve the needs and interests of the public.
- (4) Maintain the City archives.
- (5) Determine the purposes for which any moneys or property derived from any trust or donation made for library purposes shall be expended or used, subject only to the terms of such trust or donation.
- (6) Perform such other duties as are required by this Charter or assigned in writing by the Mayor.

Section 5-503. Librarian.

The Board shall appoint a professional Librarian who shall serve at its pleasure and who shall be in charge of the libraries and other facilities under the jurisdiction of the Board. The Librarian shall meet the qualifications required of Parish Librarians, as specified under applicable state and municipal law.

CHAPTER 6

NEW ORLEANS AVIATION BOARD

Section 5-601. Composition

Section 5-602. Functions

Section 5-603. Aviation Director

CHAPTER 6

NEW ORLEANS AVIATION BOARD

Section 5-601. Composition.

The New Orleans Aviation Board shall consist of nine members who shall be appointed by the Mayor with the approval of the Council for terms of five years, so arranged that the term of one or two members shall expire each year.

Section 5-602. Functions.

The Board shall:

- (1) Administer, operate and maintain all municipal airports and aviation facilities.
- (2) Represent the City in all technical matters pertaining to aeronautics in consultation with state, national or international aeronautics officers or agencies.
- (3) Provide for the regulation and policing of municipal airports and aviation facilities in accordance with applicable state and municipal law.

Section 5-603. Aviation Director.

The Board may appoint an Aviation Director who shall serve at its pleasure and who shall be the executive officer of the Board.

CHAPTER 7

VIEUX CARRÉ COMMISSION

Section 5-701. Composition

Section 5-702. Functions

Section 5-703. Enforcement

CHAPTER 7

VIEUX CARRÉ COMMISSION

Section 5-701. Composition.

There shall be a Vieux Carré Commission consisting of nine electors, domiciled in the City, appointed by the Mayor with the approval of the Council, for a term of four years, as provided by Article 14, Section 22A of the Louisiana Constitution of 1921, and retained by Article 6, Section 17 of the Louisiana Constitution of 1974. At least one Mayoral at-large appointment shall be domiciled within the area bounded by the Mississippi River, the downtown side of Iberville Street, the river side of North Rampart Street and the uptown side of Esplanade Avenue. In selecting persons for appointment to at-large positions on the Vieux Carré Commission, the Mayor shall take such steps as are necessary to ensure that persons from all areas of the City are given due consideration for such appointments.

Section 5-702. Functions.

The Commission shall:

- (1) Preserve those buildings in the Vieux Carré section of the City as defined by the Constitution, having an historical or architectural value.
- (2) Make such recommendations to the Council as it deems appropriate concerning measures for the preservation of the Vieux Carré.

Section 5-703. Enforcement.

The Council shall by ordinance or otherwise carry into effect provisions of the Constitution and this chapter relating to the Vieux Carré section and shall provide for the enforcement of such provisions by appropriate legal proceedings including resort to injunctive process.

CHAPTER 8

AUDUBON COMMISSION

Section 5-801. Audubon Commission

Section 5-802. Powers, Duties, and Functions

Section 5-803. Administration

CHAPTER 8

AUDUBON COMMISSION

Section 5-801. Audubon Commission.

The Audubon Park Commission shall hereinafter be known as the Audubon Commission and shall be continued in existence from January 1, 1996, the effective date of this amendment, with the same powers, duties, and functions as enjoyed by the Commission previously. The powers, duties, functions, administration, and operation of the Commission shall be as provided for in this chapter of the Charter and other applicable state and municipal law.

Section 5-802. Powers, Duties, and Functions.

The powers, duties, functions, administration, and operation of the Audubon Commission shall be as provided in this chapter to administer, operate, and maintain facilities administered by the Commission, including Audubon Park, the Aquarium of the Americas, Woldenberg Riverfront Park, the Species Survival Center, the Louisiana Nature Center and other educational, cultural and recreational facilities, and to perform such other duties as are provided by applicable law, subject to the provisions of the City's Master Plan, its land use regulations, and its permitting authority. The Commission shall not accept, assume, or exercise any power or function which relates to taxation or the police power or which imposes a financial obligation on the city derived from any state law unless approved by ordinance of the Council.

Section 5-803. Administration.

- (1) Any capital or operating funds appropriated by the City Council to the Commission in accordance with the provisions of this Charter shall be administered by the Commission subject to all provisions of the Charter applicable to such appropriations. All other funds received by the Commission, including but not limited to funds generated from the operation of facilities by the Commission, millage revenues, donations, and federal, state, or local funds, shall be administered solely by the Commission in accordance with the procedures specified in this section.
- (2) The Commission shall prepare and transmit its operating and capital budgets annually to the Mayor and Council no later than the first day of December of each year.

- (3) The Commission shall prepare and transmit to the Mayor and Council an independent audit prepared by a Certified Public Accountant or firm of Certified Public Accountants within 120 days of the end of its fiscal year. Notwithstanding the preparation and transmittal of such an audit by the Commission, the Council may include the Commission in the independent audit authorized pursuant to Section 6-107 of this Charter.
- (4) The Commission shall comply with all state and municipal public bid laws dealing with the procurement and disposition of property.
- (5) The Commission may accept any trust or conditional donation without the necessity of review by the Board of City Trusts or its successor, provided that the Commission shall not accept any trust or conditional donation which imposes a financial obligation unless the acceptance is approved in accordance with procedures established by ordinance or in accordance with procedures established in this Charter for the acceptance of a trust or conditional donation. In no event shall acceptance of any trust or conditional donation by the Commission impose any financial obligation on the City unless approved as provided by this section.
- (6) The Commission may retain counsel, whose duties may include the performance of notarial work for transactions required to be in authentic form.

CHAPTER 9

NEW ORLEANS ALCOHOLIC BEVERAGE CONTROL BOARD

Section 5-901. Composition

Section 5-902. Functions

CHAPTER 9

NEW ORLEANS ALCOHOLIC BEVERAGE CONTROL BOARD

Section 5-901. Composition.

The New Orleans Alcoholic Beverage Control Board shall consist of seven members who are electors of and domiciled in the City, one appointed by each member of the Council, for terms of four years. The terms of office of the members of the Board shall expire on June thirtieth of the year that the Mayor and Councilmembers take office.

Section 5-902. Functions.

The Board shall:

- (1) Hear and decide cases for suspension or revocation of City alcoholic beverage permits.
- (2) If provided by ordinance, hear and decide appeals from persons who have been denied alcoholic beverage permits by an administrative official in the enforcement of applicable state or municipal laws.

The Board shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers in connection with its activities.

The Board may employ necessary staff in accordance with applicable Civil Service law and subject to appropriations by the Council. The Board's operation and procedures shall be governed by Chapter 1 of Article IX of this Charter and by applicable state and municipal law.

CHAPTER 10

NEW ORLEANS RECREATION DEVELOPMENT COMMISSION

Section 5-1001. Composition

Section 5-1002. Powers, Duties, and Functions

Section 5-1003. Administration

CHAPTER 10

NEW ORLEANS RECREATION DEVELOPMENT COMMISSION

Section 5-1001. Composition.

The New Orleans Recreation Development Commission shall consist of thirteen members who are electors of and domiciled in the City appointed by the Mayor with the approval of the City Council. Terms for members of the Commission shall be for five years initially. Not more than thirty days from the effective date of this section, the Council shall adopt an ordinance providing for terms of Commission members to be staggered, commencing on the expiration of the initial five year terms.

Not more than thirty days from the effective date of this Section, the City Council shall adopt an ordinance providing for the composition of the Commission, including the requisite qualifications of its members. In the development of said ordinance, the Council shall consider factors such as diversity, geographic location, relevant skills and any other expertise beneficial to the operation of the recreation facilities and programs for the City.

Section 5-1002. Powers, Duties, and Functions.

The powers, duties, functions, administration, and operation of the New Orleans Recreation Development Commission shall be as provided in this chapter and as may be further provided for by ordinance of the Council and any Cooperative Endeavor Agreement that may be entered into for that purpose. The Commission shall not accept, assume, or exercise any power or function which relates to taxation or the police power or which imposes a financial obligation on the City derived from state law unless prior approved by ordinance of the Council.

Annotation: Powers, Duties, and Functions of the New Orleans Recreation Development commission are set forth in Ordinance No. 24,126 M.C.S., adopted on September 2, 2010.

Section 5-1003. Administration.

- (1) Any capital or operating funds appropriated by the City Council to the former Department of Recreation or to the Commission in accordance with the provisions of the Charter shall be administered by the Commission subject to all provisions of the Charter applicable to such appropriations. All other funds received by the Commission, including funds generated from the

operation of facilities and programs by the Commission, millage revenues, donations, and federal, state or local funds, shall be administered solely by the Commission within the procedures specified in this section.

- (2) The Commission shall operate on a fiscal year schedule consistent with that of the City and shall prepare and transmit its operating and capital budgets to the Mayor and Chief Administrative Officer in accordance with Section 6-101 and Section 6-104 of this Charter.
- (3) The Commission shall prepare and transmit to the Mayor, Council and Inspector General of the City of New Orleans an independent audit prepared by a Certified Public Accountant or firm of Certified Public Accountants within 120 days of the end of its fiscal year. Notwithstanding the preparation and transmittal of such an audit by the Commission, the Council may include the Commission in the independent audit authorized pursuant to Section 6-107 of this Charter.
- (4) Except for any private property the use of which is acquired through lease or other temporary agreement, all property acquired for or by the Commission, or that is under the administrative control of the Commission shall be property of the City. The Commission shall comply with the provisions of this Charter and all state and municipal public bid laws related to the acquisition and/or disposition of property.
- (5) The Commission may accept any trust or conditional donation without the necessity of review by the Board of City Trusts or its successor(s), provided that the Commission shall not accept any trust or conditional donation which imposes any financial obligation on the City unless the acceptance is approved in accordance with procedures established in this Charter for the acceptance or any trust or conditional donation. In no event shall acceptance of any trust or conditional donation impose any financial obligation on the City unless approved as provided by this Charter.
- (6) The Commission may retain counsel, whose duties may include the performance of notarial work for transactions required to be in authentic form.
- (7) All meetings of the Commission and any of its committees shall be conducted in accordance with the Louisiana Open Meetings Act, R.S. 42:4.1, *et seq.* All documents of the Commission shall be public records available to the public in accordance with the Louisiana Public Records Act, R.S. 44:1 *et seq.*

*Historical Annotation: In accordance with Section 9-201 of the Home Rule Charter of the City of New Orleans, the Charter was amended following an election on Saturday, October 2, 2010, according to the terms set forth in Ordinance No. 23,998 M.C.S. The duties and responsibilities previously performed by the Department of Recreation and one of the duties of the Department Parks & Parkways were transferred to the New Orleans Recreation Development Commission.

ARTICLE VI
FINANCIAL ADMINISTRATION PROCEDURES

Chapter 1. Budgeting and Auditing

Chapter 2. Fund Administration

Chapter 3. Procurement and Disposition of Property

CHAPTER 1

BUDGETING AND AUDITING

Section 6-101. Revenue Estimating Conference

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CHAPTER 1

BUDGETING AND AUDITING

Section 6-101. Revenue Estimating Conference.

- (1) The Revenue Estimating Conference shall be composed of the Mayor, who shall serve as chair, the Chief Administrative Officer, the Director of Finance, a member of the Council selected by the Council, and a faculty member of a college or university in New Orleans who has expertise in forecasting revenues or in a related field. The faculty member shall be appointed by the Mayor and confirmed by the Council to serve for a term concurrent with that of the Mayor and shall be subject to removal under the same procedure as provided in this Charter for removal of board members.
- (2) The conference shall prepare and publish initial and revised estimates of money which is to be recognized for the current and next fiscal year by the City general fund and all other City operating funds, such estimates to be based upon standards promulgated by the Governmental Accounting Standards Board and which shall be known as the "official forecast." The conference shall meet at least quarterly. The Mayor may call meetings of the conference at any time in accordance with applicable state and municipal law and shall call meetings when requested to do so by Motion of the City Council. In each estimate, the conference shall designate the money which is nonrecurring or will recur only in a limited number of years. Conference decisions to adopt these estimates shall be by a unanimous vote of its members. The most recently adopted estimate, as defined above, shall be the official forecast and shall constitute a recommendation to the Mayor and City Council of the amount of revenues to be included in the operating budget for the year for which the forecast is made.

Section 6-102. Preparation of the Annual Operating Budget.

- (1) The Chief Administrative Officer shall annually, and not later than the first day of August, make available sufficient data relating to the current and preceding year's appropriations and expenditures for each fund to each office, department, board, the Council, pension and retirement system, trust proceeds fund, debt service fund or other entity which is receiving or seeks to receive an appropriation from the Council payable from any

operating fund of the City or which expends City funds. All data required under this section shall be in a format which adheres to generally accepted accounting principles as defined by the Governmental Accounting Standards Board or any successor organization, except as provided in Section 6-103 (1).

- (2) Any entity which seeks an appropriation from any operating fund of the City shall submit detailed data to the Chief Administrative Officer in accordance with a schedule prescribed by the Chief Administrative Officer for compilation and recommendations for review by the Mayor prior to the Mayor's submission of the proposed budget to the City Council.
- (3) The Chief Administrative Officer, after consulting with the Council and the heads of offices, departments and boards, shall prepare a preliminary budget for the consideration of the Mayor. The preliminary budget shall include all budget requests and the recommendations of the Chief Administrative Officer with respect to each request, an estimate of revenues from each source, and a statement of the total estimated revenues and total recommended expenditures for each operating fund.
- (4) The Mayor shall review the preliminary budget and may hold either formal or informal hearings thereon, at which the heads of each office, department or board may be given an opportunity to be heard with respect to their requests. The Chief Administrative Officer shall then prepare the operating budget under the direction of the Mayor. Such budget shall set forth each item of expenditure recommended by the Mayor and estimates of revenues which will be available for expenditure. If the estimate of any revenue differs by more than three percent from the estimate of that revenue in the official forecast, information on the difference and an explanation thereof shall be submitted to the Council with the operating budget. Where the estimated revenues from existing sources are insufficient to meet the recommended expenditures, the Mayor shall provide recommendations of new sources of revenues to balance the budget. The operating budget shall be presented to the Council with a message from the Mayor outlining reasons for the requested appropriations and shall be accompanied by proposed revenue and operating budget ordinances to give effect to the budget as presented. The mere enumeration of a function, power, or activity in this Charter shall not, in and of itself, mandate that the Council appropriate specific funds with respect thereto.
- (5) The proposed ordinance for the operating budget shall provide lump sum appropriations under the following classes for each budget unit:
 - (a) Personal services of officers and employees.

- (b) Other operating expenses.
 - (c) Debt service.
 - (d) Such other classes as the Mayor may annually establish.
- (6) The proposed ordinance for the operating budget shall authorize the transfer of all amounts authorized by the capital budget ordinance from the general fund and any special revenue funds to the capital projects funds to be financed from such transfers.
 - (7) There shall be appended to the operating budget a statement of the transactions of each of the pension and retirement systems, expendable trust funds, and debt service funds, for the preceding year, for the current year to June thirtieth, anticipated transactions for the remainder of the current year and for the ensuing fiscal year, and a projection of anticipated revenues and expenditures of the City, including all dedicated and undedicated funds and the funds of each unattached board and commission for the next five fiscal years.
 - (8) The operating budget and the proposed revenue and operating budget ordinances shall be submitted to the Council not later than the first day of November. Sufficient copies of the operating budget shall be supplied by the Mayor to the Clerk of Council for distribution to members of the Council and to interested citizens.

Section 6-103. Administration and Enforcement of the Operating Budget Ordinance.

- (1) The adoption of the operating budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the year.
- (2) Following the adoption of the operating budget ordinance, the head of each office, department and board shall submit to the Chief Administrative Officer schedules showing the expenditures anticipated for each quarter of the fiscal year.
- (3) The approval of an expenditure schedule by the Chief Administrative Officer shall constitute a budgetary allotment which shall be binding upon such office, department or board, and the Department of Finance shall approve or issue no requisition, purchase order, voucher or check that is

not in accordance with such allotment.

- (4) The allotments herein provided may be altered at any time by the Chief Administrative Officer upon his own initiative or at the request of the head of an office, department or board and shall be altered at the direction of the Mayor. The Mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.
- (5) The Director of Finance and his surety shall be liable for any moneys withdrawn from any operating fund other than in accordance with the operating budget ordinance and allotments.

Section 6-104. Preparation of the Capital Program and Capital Budget.

- (1) The City Planning Commission annually and not later than the fifteenth day of October shall prepare and submit to the Mayor a capital program.
- (2) Each office, department, board, the Council, pension and retirement system, expendable trust fund, and debt service fund or other entity annually shall present to the City Planning Commission, in accordance with a schedule prescribed by the Chief Administrative Officer, a list of all the expenditures for permanent physical improvements which it is making or believes should be made in conjunction with its work during the next five years.
 - (a) Each list shall show the projects in process of construction or acquisition, their present status, the amounts spent or to be spent thereon to the close of the current year, the work which is required to complete each undertaking with a schedule for such completion, the amount and source of the moneys spent, and the amount and source of moneys required during each of the five succeeding years to complete each undertaking.
 - (b) Each proposal shall contain a justification of the project, its estimated cost, method of financing, the estimated cost of annual operation and maintenance, the proposed dates of initiation and completion of the project, the financial requirements during each of the five ensuing years and the source of such moneys.
- (3) The Chief Administrative Officer shall furnish to the Commission a statement of the moneys likely to be available from the General Fund and special revenue funds and the amount of bonds which the Mayor believes it would be proper for the City to issue during each of the next five years. The Commission shall then prepare the capital program for the next five

years, in which it shall recommend the projects to be undertaken within the period in priority order and shall state the sources of moneys to be used for each project during each year of the period.

- (4) Upon receipt of the capital program from the Commission, the Mayor shall prepare a message to the Council setting forth recommendations with regard thereto. The Chief Administrative Officer, under the direction of the Mayor, shall prepare a proposed capital budget ordinance for the first year covered by the capital program. Not later than the first day of November, the Mayor shall submit to the Council the capital program as prepared by the Commission, the capital budget message, and the proposed capital budget ordinance.

Section 6-105. Administration and Enforcement of the Capital Budget Ordinance.

- (1) The adoption of the capital budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the year. Officers authorized to make expenditures under the capital budget ordinance may proceed without other authority from the Council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.
- (2) Accounting officers of the City shall be responsible for the enforcement of the capital budget ordinance to the same extent as the Director of Finance is responsible for the enforcement of the operating budget ordinance.

Section 6-106. Fiscal Year.

The fiscal year of the City shall be the calendar year unless changed by ordinance. If the fiscal year is modified, the time limits specified in this Chapter shall be modified by the ordinance to conform to substantially the same general time schedule as that specified herein.

Section 6-107. Encumbrance Defined.

For the purpose of this Charter, the term "encumbrance" shall mean a commitment for expenditure of an appropriation evidenced by a valid requisition properly approved.

Section 6-108. Independent Audit.

- (1) The Council shall execute an agreement with a Certified Public Accountant or firm of Certified Public Accountants for the purpose of securing an audit of the accounts of the City and may execute such an agreement for the purpose of securing an audit of the accounts of any office or public body that receives or expends City funds, including non-municipal offices and public bodies.
- (2) As soon as practicable and in no event later than six months after the close of the fiscal year, the accountant or accountants shall submit to the Council a report upon the transactions of the year just completed.
- (3) No certified public accountant selected to make the audit or any of the partners of the firm of certified public accountants selected to make the examination shall be a member, an officer, or an employee of a department, board or other agency of the City.
- (4) If the person or firm selected to make the audit informs the Council that any office or entity receiving or expending City funds has failed or refused to provide information or permit inspections necessary or reasonably desirable for completion of the audit, the City Council may issue and the City Attorney shall promptly seek enforcement of subpoenas to compel the requested inspection or information.

CHAPTER 2

FUND ADMINISTRATION

Section 6-201. Operating Funds

Section 6-202. Pension and Retirement Funds

Section 6-203. Debt Service Funds

Section 6-204. Capital Projects Funds

Section 6-205. Nonexpendable Trust Funds

Section 6-206. Expendable Trust Funds

Section 6-207. Other Funds

Section 6-208. Deposit of Funds

CHAPTER 2

FUND ADMINISTRATION

Section 6-201. Operating Funds.

- (1) Except as otherwise provided in this Chapter, all moneys of the City held by the Director of Finance or other officers for the purpose of defraying any operating expense shall constitute "operating funds."
- (2) The Director of Finance shall establish and maintain the following operating funds:
 - (a) **The General Fund.** Except as otherwise provided by this Charter or applicable state law, all taxes, licenses, fees, and other receipts, revenues and income of the City shall be deposited daily to the credit of the "General Fund of the City of New Orleans".
 - (b) **Other Operating Funds.** The Council shall by ordinance establish such other operating funds as are required to comply with the provisions of any law, contract or donation under which the City receives moneys or to comply with generally accepted accounting principles.
- (3) No moneys shall be disbursed from operating funds except in accordance with an appropriation made by the operating budget ordinance and allotments thereunder, the capital budget ordinance as provided for in this Charter, or applicable state and municipal law. No operating expense shall be paid from any fund other than an operating fund, except to the extent specifically authorized by ordinance to be paid from other funds.
- (4) The Council may authorize by ordinance the creation of petty cash accounts to permit payment for small purchases which are impractical to pay by check. No petty cash account shall be for a greater amount than is necessary to finance transactions for one month. Officers or employees having custody of petty cash accounts shall be bonded, shall use the funds only for public purposes, shall submit appropriate documentation for all expenditures, and shall comply with any requirements imposed by ordinance.

Section 6-202. Pension and Retirement Funds.

- (1) All funds maintained for the purpose of paying any pension or retirement benefits, payments or refunds, or for providing any reserve or accumulation with respect thereto, shall constitute “pension and retirement funds.”
- (2) No payments shall be made from any pension or retirement fund for any purpose other than to pay benefits authorized to be paid from such funds; to make investments as may be provided by law; or to refund contributions to the members of such funds. All operating expenses of pension and retirement systems shall be payable only from operating funds.
- (3) The governing authority of any pension or retirement fund may arrange with the Board of City Trusts for the administration of the reserves held by such pension or retirement fund.

Section 6-203. Debt Service Funds.

- (1) All moneys or securities held for the purpose of paying the principal, sinking fund installments, interest, or other valid expenses in connection with the servicing or payment of any obligation which becomes due and payable more than one year from its date shall constitute “debt service funds.”
- (2) The Director of Finance and other officers, departments or boards when required by law or by the terms of any bond, note, certificate or other evidence of indebtedness, shall maintain such funds as may be necessary to enable the City to perform its contractual obligations.
- (3) Moneys held in any debt service fund by any officer, department or board shall be disbursed only in accordance with the provisions of law or contract relating thereto. No appropriations shall be required as a prerequisite to disbursement from such fund.

Section 6-204. Capital Projects Funds.

- (1) All moneys received or held for the purpose of defraying the cost of any capital expenditure shall constitute “capital projects funds.”

- (2) Capital projects funds shall consist of moneys derived from the proceeds of the sale of immovable property, from proceeds of bonds, notes, certificates or other evidences of indebtedness for capital expenditures, including proceeds of temporary loans negotiated in anticipation thereof, from appropriations or grants from other governments or governmental agencies for capital expenditures, from allocations made by any operating budget ordinance for capital expenditures, from proceeds from any insurance settlement for loss sustained to immovable property, from proceeds of assessments for street improvements to the extent not dedicated to repayment of debt, or from transfers from any reserve fund maintained for ultimate capital expenditures.
- (3) Capital projects funds shall be expended only in accordance with the terms of the capital budget ordinance, the terms of loans negotiated, or the terms of tax levies.

Section 6-205. Nonexpendable Trust Funds.

- (1) All moneys acquired by donation which are to be invested or held intact, temporarily or permanently, and all other property acquired by donation shall constitute "nonexpendable trust funds."
- (2) The Director of Finance shall be the treasurer for any other trusts held by or in the name of the City, its officers, departments or boards, except insofar as specifically and irrevocably otherwise provided under the terms of the donation or trust. The Director shall receive and deposit to the credit of such funds and accounts all the moneys belonging thereto, and shall make disbursement therefrom only in accordance with resolutions or other appropriate authorizations furnished by the Board of City Trusts or other persons, officers, departments or boards having power so to authorize.

Section 6-206. Expendable Trust Funds.

- (1) All moneys derived from the interest, dividends, or other earnings of trust funds or from the sale of trust fund assets that are to be expended for any purpose under the terms of any donation or trusts shall constitute "expendable trust funds."

- (2) The Director of Finance shall maintain separate funds and bank accounts for each such expendable trust fund, shall receive and deposit to the credit of such funds and accounts all of the moneys belonging thereto, and shall make disbursement therefrom only in accordance with resolutions or other appropriate authorization furnished by the Board of City Trusts or other persons, officers, departments or boards having power so to authorize.

Section 6-207. Other Funds.

The Mayor, with the approval of the Council, may establish other funds when necessary and when no appropriate class of funds exists in accordance with generally accepted accounting principles, and the Director of Finance may create funds required to comply with generally accepted accounting principles.

Section 6-208. Deposit of Funds.

Money received by officers and employees shall be deposited promptly to the City's account in depository banks. The bank account may indicate the name of the fund, department, board or beneficiary for whom the money is deposited.

CHAPTER 3

PROCUREMENT AND DISPOSITION OF PROPERTY

Section 6-301. Procurement of Movable Property

Section 6-302. Procurement of Immovable Property

Section 6-303. Insurance

Section 6-304. Surety Bonds

Section 6-305. Disposition of Movable Property

Section 6-306. Disposition of Immovable Property

Section 6-307. New Orleans Municipal Trust Fund

Section 6-308. Contracts

CHAPTER 3

PROCUREMENT AND DISPOSITION OF PROPERTY

Section 6-301. Procurement of Movable Property.

- (1) The Department of Finance shall be responsible for the procurement of all movable property to be paid for from any appropriation made by the Council.
- (2)
 - (a) Before procuring any movable property, the Department of Finance shall ascertain whether or not movable property is available for transfer to satisfy any requisition, and if such is available, the transfer shall be made in lieu of all or a portion of the procurement with appropriate credits and charges to the budget units involved.
 - (b) If such property is not available for transfer, the Department of Finance shall procure it from the lowest responsible bidder who conforms to the terms and specifications prepared by the Department, except in cases where competitive bids are not required by state or municipal law.

Section 6-302. Procurement of Immovable Property.

- (1) The Bureau of Purchasing shall be responsible for the procurement of all immovable property, but only in conformity with the instructions of the Department of Property Management.
- (2) Requisitions for the procurement of immovable property which have been approved by the appropriate accounting officer as to availability of unencumbered fund balances shall be submitted to the Department of Property Management, which department shall ascertain whether property owned or leased by the City is available for the purpose requested. If such property is available, the Director of Property Management shall arrange for its assignment or transfer in cooperation with the budget units involved. If such property is not available, the Department of Finance shall procure the necessary property by purchase, lease, exchange or expropriation.

- (3) No immovable property shall be acquired by the City without the approval of the City Planning Commission as to its use, and where necessary, the approval of the Board of City Trusts. If either fails to act within thirty days of a request for approval, its approval shall be presumed.
- (4) All expropriation proceedings shall be instituted in the name of the City through the Department of Law.

Section 6-303. Insurance.

- (1) Insurance against fire, windstorm, and other hazards may be procured for the protection of the property of the City in such amounts and under such conditions as the Council shall ordain.
- (2) The City may, without waiver of its governmental immunity, procure public liability, bodily injury, and property damage insurance covering such risks and in such amounts as the Council may ordain, provided all such policies of insurance shall contain a stipulation that the insurer shall not assert the governmental immunity of the City as a defense of any suit on such policies.
- (3) All insurance shall be procured by the Department of Finance from companies licensed by the state to insure the types and amounts of risks involved.

Section 6-304. Surety Bonds.

Except as herein otherwise provided, the Council shall determine which officers and employees shall be required to furnish surety bonds and shall determine the amount of each such bond. The Department of Finance shall procure all such surety bonds from companies licensed to do business in the state. All such bonds shall be in favor of the City, and the premiums thereon shall be borne by the City.

Section 6-305. Disposition of Movable Property.

Boards, department heads, and other officers having movable property which is not useful to them shall from time to time and at least annually furnish a list thereof to the Department of Finance. The Department of Finance shall examine such property, and if the same is found to be usable, it shall be returned to the central storehouse or inventoried for subsequent issue upon requisition. If it is found to be unusable for public purposes, the Director of Finance, after fixing a minimum price shall cause the property to be exchanged or sold at public auction to the highest bidder for not less than the

minimum price established after advertisement in the official journal twice, and the proceeds shall be placed in the General Fund. By ordinance approved by two-thirds of all its members, the Council may authorize the sale without public bid of movable property not needed for public purposes at a shop or store operated by or under the authority of the City of New Orleans, and the proceeds shall be placed in the General Fund or another fund as specified in the ordinance.

Section 6-306. Disposition of Immovable Property.

- (1) The Department of Property Management shall from time to time, and not less than once in two years, review the immovable property of the City and make recommendations to the Council and the City Planning Commission for the disposition of such property as is no longer needed.
- (2) With the prior approval of the Mayor and the City Planning Commission, the Council may ordain the sale or exchange of immovable property no longer needed. In its resolution of approval, the City Planning Commission may impose restrictions as to future use of such property in order to insure that its use will be in conformity with the plans developed or in process of development by the Commission. The Director of Finance, after fixing a minimum price, shall, either individually or through a person appointed by the Director, cause the property to be sold at public auction to the highest bidder for not less than the minimum price after advertisement in the official journal three times, and the net proceeds shall be placed the Capital Projects Fund. However, immovable property may be transferred for purposes of rehabilitation without public auction, in accordance with procedures authorized by state law.

Section 6-307. New Orleans Municipal Trust Fund.

- (1) Notwithstanding the provisions of Section 6-306 of this Chapter, all net proceeds resulting from a sale of any immovable property owned by the City having a sale price of more than five million dollars, including but not limited to the New Orleans International Airport, shall be placed in an expendable trust fund to be designated as the New Orleans Municipal Trust Fund. Specific donations or bequests to the New Orleans Municipal Trust Fund shall also be placed in the fund. The Council may from time to time appropriate additional funds to be placed in the Municipal Trust Fund. No appropriations shall be made from the fund except in accordance with paragraph (2) of this section.

- (2) The Council may by ordinance make appropriations from the New Orleans Municipal Trust Fund to the General Fund provided that the total appropriations in any fiscal year shall not exceed eighty percent of the amount reasonably anticipated to be earned on the amount contained in the fund during that fiscal year. The Council may by ordinance approved by a two-thirds vote of all its members appropriate to the Capital Projects Fund in any fiscal year up to fifty percent of the amount contained in the Municipal Trust Fund on the first day of that fiscal year.
- (3) The provisions of this section may be declared inapplicable to all or any portion of the proceeds of a sale of immovable property owned by the City if a resolution is adopted by affirmative vote of not less than two thirds of the membership of the Council which states the Council's determination that:
 - (a) the immovable property was used for an essential public service, such as sewerage, water, drainage, recreation, port, or railroad purposes, and the proceeds from the sale are necessary to continue to provide the service, either for replacement of the property sold or for capital improvements by the City department, board or agency for whose benefit the property was used; or
 - (b) the immovable property was used primarily for office space or other essential support of City employees or activities, and the proceeds from the sale of the property are necessary to provide for replacement of that space or support; or
 - (c) the immovable property is or was acquired pursuant to the terms of a donation, trust, contract, or law which would preclude the deposit of the proceeds from the sale of the property into the Municipal Trust Fund.

The Council shall hold a public hearing on any resolution to declare this section inapplicable to a sale of immovable property, which hearing shall be advertised in the official journal once a week during the two weeks preceding the public hearing.

- (4) If the City disposes of immovable property by means of an exchange of property with additional cash compensation to the City, and the total value of the property and cash exceeds five million dollars, the provisions of this section shall apply to the cash proceeds of the transaction.
- (5) Despite its name, the Municipal Trust Fund shall not be subject to the provisions of Chapter 18 of Article IV of this Charter. However, conditional donations to the Municipal Trust Fund shall be subject to the provisions of Chapter 18 of Article IV of the Charter.

Section 6-308. Contracts.

- (1) All formal written contracts to which the City is a party, except those executed pursuant to paragraph (5)(c) of this section, shall be signed by the Mayor or, under the Mayor's authorization, by the Director of Finance or the Director of Property Management. Contracts may be proposed by any officer, department or board but, before being presented for signature, shall be approved by the Department of Law as to form and legality.
- (2) Prior to signature, contracts involving financial obligations by the City shall be approved also by the Department of Finance as to the availability of funds in the amounts and for the purposes set forth therein. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations shall have been made. This paragraph shall not apply to obligations for the procurement of services from regulated utilities, telecommunication services, and sanitation services.
- (3) All construction of public buildings shall be done by contract in conformity with applicable state or municipal law.
- (4) Contracts for the leasing of property belonging to the City for periods of more than one year shall be subject to requirements which may be imposed by ordinance.
- (5)
 - (a) Except in the purchase of unique or noncompetitive articles, competitive bids shall be secured before any purchase, by contract or otherwise, is made or before any contract is awarded for construction, alteration, repair or maintenance or for the rendering of any services to the City, other than professional services, and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder after advertisement prescribed by ordinance or by applicable state or municipal law.
 - (b) Contracts for professional services administered by the offices, departments, boards, and other agencies of the Executive Branch shall be awarded on the basis of a competitive selection process which shall be established by executive order of the Mayor.
 - (c) Contracts for professional services administered by the Council, pursuant to its Charter functions, legislative authority and responsibilities, and regulatory authority and responsibilities, shall be awarded on the basis of a competitive selection process which shall be established by rule of the Council. Such contracts shall be signed by the Council president upon authorization by Motion

adopted by a majority of the entire membership of the Council, except that pursuant to Section 4-403(2), contracts to employ special counsel shall require a two-thirds vote of the Council's entire membership. The Council rule may except contracts executed solely to assist the office of an individual councilmember.

- (d) Each such order or rule and any amendment thereto shall be published once in the official journal and shall be the subject of a public hearing at least seven days prior to its effective date. The Executive Branch or Council competitive selection processes may include a threshold amount below which the competitive selection process shall not be required. The amount of the threshold shall be established by ordinance.
- (6) The Director of Finance shall require of successful bidders a performance bond and, where appropriate, a labor and materials bond. The Director may in the exercise of sound discretion permit a bidder to file an annual bond to cover bids that may be made by, or the performance of contracts that may be awarded to, such bidder during an annual period. Such bond shall be in such amount as the Department of Finance may determine and may be increased or decreased from time to time as the Department may require, in order to keep it commensurate with the bids made or contracts awarded during the annual period.
- (7) The Council may by ordinance provide for the manner of executing other contracts and may in the case of any contract require the signatures of other officers in addition to those specified in this Section as it may deem proper for the protection of the interests of the City.

ARTICLE VII
FINANCING STREET IMPROVEMENTS

Section 7-101. The Improvements of Streets

Section 7-102. Cost

Section 7-103. Retention of Existing Rights

ARTICLE VII

FINANCING STREET IMPROVEMENTS

Section 7-101. The Improvements of Streets.

- (1) The Council shall, by ordinance, provide for the paving and improvement of streets.
- (2) The Department of Public Works shall submit to the Council for its approval the plans and specifications for the improvement of any street, provided that such plans shall not conflict with the Master Plan previously adopted by the City Planning Commission. Upon approval of plans and specifications by the Council, the Department of Finance shall advertise for bids for such work unless it is to be performed by the Department of Public Works or unless such work is part of a program undertaken in cooperation with any other governmental agency.

Section 7-102. Cost.

- (1) **Costs to be Paid by Developers of Subdivisions.** The Department of Public Works with the approval of the Council may require that streets in such subdivisions be paved or repaved, and the Council may require that the subdivider pay such portion of the total cost of such paving as it may deem reasonable. To assure said payment, the subdivider shall furnish a bond or cash in an amount fixed by the Council. No such bond shall be accepted until it has been approved as to form by the City Attorney and as to sufficiency by the Director of Finance.
- (2) **Costs To Be Paid By Owners of Abutting Property.** The Council may levy assessments for paving against abutting property in the manner and subject to the limitations contained in Sections 42 through 50, both inclusive, of Louisiana Act 159 of 1912, as amended by Louisiana Act 338 of 1936, for the protection, enforcement and collection of special assessments for the financing of paving and other street improvements.

Section 7-103. Retention of Existing Rights.

All liens, privileges, preferences, processes and immunities vested in, granted to or enjoyed by the City of New Orleans prior to the effective date of this Charter under the Constitution and statutes of this state, including, without limitation those vested, granted or enjoyed under Sections 42 through 50, both inclusive, of Louisiana Act 159 of 1912, as amended by Louisiana Act 338 of 1936, for the protection, enforcement and collection of special assessments for the financing of paving and other street improvements, shall continue to be available to the City.

ARTICLE VIII
DEPARTMENT OF CIVIL SERVICE

Section 8-101. Effective Date of This Article

Section 8-102. Department of Civil Service

Section 8-103. Civil Service Commission

Section 8-104. Director's Functions

Section 8-105. The Classified and Unclassified Service

Section 8-106. Appointments and Promotions in Classified Service

Section 8-107. Adoption and Content of Rules and Regulations

Section 8-108. Classification

Section 8-109. Promotions

Section 8-110. Pay Plan

Section 8-111. Appeals

Section 8-112. Prohibitions

Section 8-113. Penalties

Section 8-114. Appropriations

ARTICLE VIII

DEPARTMENT OF CIVIL SERVICE

Section 8-101. Effective Date of This Article.

This Article shall have effect only in the absence of an applicable State law upon the same subject matter. The members of the Civil Service Commission serving on the day prior to the effective date of this Article shall complete the terms for which they were appointed and shall serve as members of the Civil Service Commission established by this Article.

Section 8-102. Department of Civil Service.

The Department of Civil Service shall consist of a Civil Service Commission, a Director of Personnel, and the employees subordinate to the Director. The Department shall be a part of the Executive Branch.

Section 8-103. Civil Service Commission.

- (1) Creation, Membership and Appointment:
 - (a) The Commission shall consist of seven members who shall be electors of and domiciled in the City.
 - (b) The presidents or chancellors of Dillard University, Loyola University, Tulane University of Louisiana, University of New Orleans, Southern University of New Orleans, and Xavier University, after giving consideration to representation of all groups, each shall nominate three persons. In addition, the employees in the classified service of the City shall nominate three persons in the classified service of the City by means of an election called for that purpose and conducted in accordance with procedures specified by the rules of the commission. The City Council shall appoint one member of the commission from the three persons nominated by each nominating authority. If the Council fails to make an appointment within thirty days of receipt of a nomination, the nominee whose name is first on the list of nominees automatically shall become a member of the Commission.

- (c) A vacancy shall be filled by appointment in accordance with the procedure for the original appointment and from the same source. Within thirty days after a vacancy occurs or, in the case of the classified employee serving on the Commission, within ninety days after a vacancy occurs, the university president or chancellor concerned or the classified city employees shall submit three required nominations. Within thirty days thereafter, the City Council shall make the appointment. If the City Council fails to appoint within the thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the Commission. If one of the nominating authorities fails to submit nominees in the time required or if one of the named institutions ceases to exist, the City Council shall make the appointment.
- (d) A member of the Civil Service Commission may be removed by the City Council, for cause, after being served with written specifications of the charges against said member and being afforded an opportunity for a public hearing thereon by the City Council.

(2) **Functions.**

The Commission shall:

- (a) Appoint the Director, after competitive examination, who shall be in the classified service.
- (b) Adopt classification plans, pay plans, and rules and regulations, and any amendments thereto after public hearing.
- (c) Hear and dispose of appeals as provided in this Article.
- (d) Advise the Mayor, the Chief Administrative Officer, the Director and any other officer of the City concerning personnel matters.
- (e) Have the right to remove the Director for cause, after charges have been preferred against the Director and the Director has been provided a reasonable opportunity to be heard with respect to them and to produce evidence with respect thereto.
- (f) Investigate and publicly hear any written charges brought by any person if filed within sixty days after the alleged violation of any provision of this Article or rules and regulations adopted thereunder.

- (g) Order the withholding of compensation from any person found to be employed contrary to the provisions of this Article or rules and regulations adopted thereunder. Such order shall be directed to the appointing authority employing such person and said officer shall withhold payment of compensation to such person until authorized by the Commission, under the penalty of personal liability for any sum paid contrary to the order of the Commission, and under such other penalties as may be provided.
- (h) Approve or disapprove, after receiving the recommendations of the Director, any agreements entered into between the City and any political subdivision or public body of the State to furnish the services and facilities of the Department to it in the administration of its personnel. Any such agreement shall provide for reimbursement to the City of the reasonable cost of the services and facilities furnished.
- (i) Be vested with broad and general rule-making and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, layoffs, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require an appointing authority to institute an employee training and safety program; and generally to accomplish the objectives and purposes of the merit system of civil service as herein established, It may make recommendations with respect to employee training and safety. No rule, regulation, or practice of the Commission or Department or any official of the city shall favor or discriminate against any applicant or employee because of membership or non-membership in any private organization; but this shall not prohibit the City or any agency thereof from contracting with any employee organization with respect to wages, hours, grievances, working conditions, or other conditions of employment in a manner not inconsistent with this Charter, applicable state or municipal law, or valid rule or regulation of the Commission.

Section 8-104. Director's Functions.

The Director shall:

- (1) Head the Department and, with the approval of the Commission, appoint

such employees and other persons as may be necessary.

- (2) Conduct competitive entrance and promotional examinations for appointments in the classified service limited to persons of good moral character.
- (3) Give wide publicity to all announcements of competitive examinations.
- (4) Prepare and recommend to the Commission appropriate rules and regulations.
- (5) Prepare, and upon adoption by the Commission, install and maintain classification plans based on the authority, duties and responsibilities of positions in the classified service.
- (6) Prepare and recommend pay plans for employees in the classified service.
- (7) Establish and maintain a service record of all appointed officers and employees of the City.
- (8) With the approval of the Commission, require an appointing authority to institute an employee training and safety program.
- (9) Investigate the operation and effect of the personnel provisions of this Charter and rules and regulations promulgated thereunder, and report publicly his findings and recommendations to the Commission and to the Mayor.
- (10) Examine the payrolls of every office, department or board from time to time, but not less than semi-annually, to ascertain if the persons whose names appear thereon have been appointed and are being compensated in accordance with the provisions of this Charter.
- (11) Perform such other functions as the Director or the commission may deem proper to enforce the provisions of this Article.
- (12) Cooperate, when authorized by the commission, with governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing lists from which eligibles shall be certified for appointment and promotion in accordance with the provisions of this Article.

Section 8-105. The Classified and Unclassified Service.

The Civil Service of the City shall be divided into the unclassified and classified service. Persons not included in the unclassified service are in the classified service.

- (1) The following shall be in the unclassified service:
 - (a) Officers elected by the people, and persons appointed to fill vacancies in elective offices.
 - (b) The Chief Administrative Officer, and all department heads except the Director of Personnel.
 - (c) One principal assistant or deputy and one person holding a confidential position for the Chief Administrative Officer, for each department head except the Department of Civil Service, for the council, and for each elected officer, board, authority, and commission established or recognized by this Charter.
 - (d) Employees in the office of the mayor and city Attorney.
 - (e) Members of boards and advisory committees.
 - (f) Bona fide students of schools employed by municipal agencies.
 - (g) Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.
- (2) Additional positions may be added to the unclassified service and may be revoked by rules adopted by the Commission.
- (3) The provisions and requirements of this Article as to methods of filling vacancies, establishment of promotional lists and employment lists, eligibility and original entrance competitive tests may be waived by the Commission in its discretion in whole or in part in case of original appointment for unskilled labor. Such laborers may be selected and appointed by the appointing authority under the rules and regulations of the Commission. Any such employee shall acquire permanent status in the classified service if such employee passes a satisfactory work test prescribed by the Director.

Section 8-106. Appointments and Promotions in classified Service.

Permanent appointments and promotions in the classified service shall be made only after certification by the Department under a general system based upon merit, efficiency, fitness and length of service as ascertained by examinations which, so far as practicable, shall be competitive, and all positions in the classified service shall be filled from those eligible under such certification.

Section 8-107. Adoption and Content of Rules and Regulations.

- (1) **Adoption.** The Civil Service rules and regulations in effect on the day prior to the effective date of this Article shall remain in effect and be continued until amended or repealed by the Commission. The Commission shall have power to amend and repeal the rules and regulations on the recommendation of the director or on its own initiative, subject to the requirement of a prior public hearing with respect to each such proposed modification.
- (2) **Content.** The rules and regulations shall:
 - (a) Regulate employment, promotion, removal, qualifications and other personnel matters.
 - (b) Provide for the filling of vacancies in the classified service by demotion, transfer, reinstatement, reemployment, promotion, original appointment or temporary appointment.
 - (c) Provide for the establishment, maintenance, consolidation and cancellation of eligible lists and the removal of names therefrom.
 - (d) Regulate employment conditions.
 - (e) Establish requirements of desirable training, experience and other qualifications of applicants.
 - (f) Establish work test periods of not less than six nor more than twelve months before appointees acquire permanent status as classified employees.
 - (g) Contain uniform provisions covering the method and manner of conduction examinations; leaves of absence; layoffs; reinstatements; transfers; abolition of positions; promotions on a competitive basis, except where the Commission finds it impracticable; sick and annual leaves; hours of work; on the job

training programs; and a uniform service rating system, including the manner in which ratings are to be used in promotions, salary increases, suspensions and separations.

- (h) Fix the procedure and the time within which appeals must be taken and heard.
- (i) Provide, in the discretion of the Commission, for compliance with standards established by any federal agency as a condition precedent to the receipt of federal funds.
- (j) Establish the method of certification of eligibles for appointment or promotion; provided that appointing authorities shall be entitled to the certification of not less than three eligibles for each vacancy, except that if more than one vacancy is to be filled, an additional eligible shall be certified for each additional vacancy; and except that special and different rules and regulations may be established for reemployment lists and reinstatements; and establish emergency, provisional or conditional appointments, or appointments for a limited period where status in the classified service is not obtained and certification is not required.
- (k) Provide the extent to which preference shall be given in appointments and promotions to persons domiciled in the City or residents of the City; to persons honorably discharged or discharged under honorable conditions from the armed forces; to the unremarried widows of such persons; and to disabled veterans or their wives when the veterans are unable to work. Such preferences shall be given only to persons who have met the minimum requirements imposed for each test and have received at least the average rating required for eligibility.
- (l) Define and prohibit political activities in addition to those specifically prohibited by this Article.

Section 8-108. Classification.

- (1) The Director shall, with the approval of the Commission, allocate each position in the classified service to the appropriate class therein on the basis of authority, duties and responsibilities. Thereafter, as new positions are created or additional classes established, or existing classes are divided, combined, altered or abolished, the Director shall make proper allocations or reallocations of positions to new or existing classes.

- (2) Class titles shall be used to designate positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the classified service under any title which has not been approved by the Director.
- (3) Any employee affected by the allocation or reallocation of a position, or by any changes in the classification plan, shall be afforded a reasonable opportunity to be heard by the Director.

Section 8-109. Promotions.

Vacancies in positions in the classified service of the City shall, as far as practicable, be filled by promotion after competitive tests from lower classes. A change from a position from one class to another with a higher maximum rate of pay shall be considered a promotion.

Section 8-110. Pay Plan.

Employees in the classified service may be compensated only in accordance with a pay plan recommended by the Commission and adopted by the council. Such plan shall include minimum rates steps for each class. Amendments to a pay plan may be adopted by the Council when recommended by the Commission. Any rule or determination of the Commission affecting wages or hours shall have the effect of law and become effective only after approval by the Council.

Section 8-111. Appeals.

- (1) Any person aggrieved by action contrary to the provisions of this Article may appeal to the Commission for redress pursuant to its rules and regulations.
- (2) In the conduct of investigations or hearings, any member of the Commission or the Director shall have the power to administer oaths, subpoena witnesses and compel the production of pertinent books and papers.
- (3) If the Commission, after a hearing, orders a dismissed or suspended employee reinstated, it may reinstate such employee under such conditions as it deems proper, and may order full pay for lost time.

Section 8-112. Prohibitions.

(1) Prohibited Political Activities.

- (a) Promotion, demotion or action on account of political or religious affiliation prohibited. No person shall be appointed or promoted to, or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations.
- (b) **Party Membership; Election.** No member of the commission and no officer or employee in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek nomination as the classified City employee serving on the City Civil Service Commission; be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party, faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise the right as a citizen to express an opinion privately, to serve as a commissioner or official watcher at the polls, and to vote as desired.
- (c) **Contributions.** No person shall solicit contributions for political purposes from any classified employee or official or use or attempt to use a position in the city service to punish or coerce the political action of a classified employee.
- (d) **Political Activity Defined.** As used in this Article, "political activity" means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The support of issues involving bonded indebtedness, tax referenda, or constitutional or City charter amendments shall not be prohibited.

(2) Other Prohibited Activities.

- (a) **False Statements and Fraud Prohibited.** No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this Article or commit or attempt to commit any fraud preventing the impartial execution of this Article and of the rules and regulations adopted hereunder.

- (b) **Consideration for Advantage Prohibited.** No persons shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other thing of value to obtain any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service.
- (c) **Elected Officers Prohibited from Classified Position.** No Person holding any elective public office shall hold a position in the classified service.
- (d) **Demotion or Dismissal of Employees.** No classified employee of permanent status shall, except for cause, be disciplined, demoted or dismissed.

Section 8-113. Penalties.

- (1) Any person who shall willfully fail to appear in response to a subpoena or fail to answer any questions or fail to produce any books or papers pertinent to any investigation or hearing by the Commission shall be guilty of a misdemeanor.
- (2) If any member of the Commission or any employee in the City Service shall willfully refuse or fail to appear before the Commission or any officer authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs or government of the City or the conduct of any officer or employee of the City on the ground that the testimony or answers would tend to incriminate the party called to appear or testify, or shall refuse to waive immunity from prosecution on account of any matter about which the party called to appear or testify may be asked to testify at any such hearing or inquiry, the party shall forfeit office or position and shall not be eligible thereafter for appointment to any position in the City Service.
- (3) If at a public hearing following written charges of the violation of any provision of this Article or any rules or regulations adopted thereunder, the Commission should determine that any employee has willfully violated any provision of this Article, or of rules or regulations adopted thereunder, the commission may direct the appointing authority to dismiss such employee and such employee shall be dismissed.
- (4) Any person who willfully violates any provision of this Article or of the rules or regulations issued thereunder shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than one hundred

dollars, nor more than one thousand dollars, or by imprisonment for a term of not less than one month nor for more than six months, or by both such fines and imprisonment.

- (5) In addition to the penalties hereinabove provided, the Commission may render an order that any person who has violated any provision of this Article shall not be eligible for employment in the City Service for a period not exceeding ten years.

Section 8-114. Appropriations.

The City shall make adequate annual appropriations to enable the Civil Service Commission and department to implement this Article efficiently and effectively.

ARTICLE IX
GENERAL PROVISIONS

Chapter 1. Boards and Commissions in General

Chapter 2. Amendments to the Charter

Chapter 3. Miscellaneous Provisions

Chapter 4. Office of Inspection General; Ethics

Chapter 5. Minimum Wage

CHAPTER 1

BOARDS AND COMMISSIONS IN GENERAL

Section 9-101. Definition of Board

Section 9-102. Organization

Section 9-103. Power of Delegation

Section 9-104. Appointment and Removal of Board Members

Section 9-105. Vacancies

Section 9-106. Prohibited Activities of Board Members

Section 9-107. Quorum

CHAPTER 1

BOARDS AND COMMISSIONS IN GENERAL

Section 9-101. Definition of Board.

The term "board" as used in this Charter shall be construed as applying to boards, commissions authorities and other public bodies except the Council.

Section 9-102. Organization.

- (1) Except as otherwise provided by applicable state or municipal law, the terms of all appointments made to boards shall expire on June 30th of the year of such expiration.
- (2) Annually at the first meeting on or after July 1st each year, each board shall elect from its members a chair, a vice-chair, a secretary, and such other officers as it shall deem necessary and proper, all of whom shall serve until June 30th of the following year or until their successors have been elected and qualified, except as otherwise provided by applicable state or municipal law.
- (3) Officers of boards may be removed from their offices by an affirmative vote of a majority of the members of the board at any regular meeting, or at a special meeting if the call for such meeting shall have stated the removal as one of the purposes thereof.
- (4) Members of boards shall serve without compensation but may receive reimbursement for expenses incurred in the conduct of the official business of the board.
- (5) Each board shall set forth in its rules the time, date, and place of its regular meetings.
- (6) The secretary of each board shall keep minutes of its transactions which shall at all times be available for public inspection.

Section 9-103. Power of Delegation.

Boards may delegate powers of appointment, determination of compensation, discipline or removal to their executive officers provided that all personnel actions so delegated shall be reported promptly to the board and such actions shall become null unless approved by the board within sixty days of the date of the action.

Section 9-104. Appointment and Removal of Board Members.

- (1) If the appointment of a board member requires approval of the Council, such approval shall be granted only by the affirmative vote of a majority of all members of the Council.
- (2) A member of a board may be removed by the appointing authority, provided that such removal shall be only for reasonable cause set forth in writing. Any member so removed shall have reasonable opportunity to be heard publicly before the Council, and in such event the removal shall be effective only if approved by a majority of the Council.
- (3) A board member for whose office there exist residence or domicile requirements shall forfeit the office immediately upon the removal of residence or domicile in a manner that would render the board member not longer qualified for appointment to the office held.

Section 9-105. Vacancies.

A vacancy on a board shall be filled in the same manner as the member was originally appointed, provide that appointment to fill a vacancy shall be only for the unexpired term.

Section 9-106. Prohibited Activities of Board Members.

- (1) No member or officer of a board shall borrow money or receive anything of value from any contractor doing business with the board under the penalty of dismissal from the board. Not member, officer, or employee of any board shall have any interest in any contract let by the board. Any member of any board who is a director or stockholder in any corporation or who is an agent or attorney for any person who is financially interested in any subject before the board shall reveal such interest to the board and shall not discuss or vote on the subject at any meeting of the board or any of its committees.

- (2) Any member of a board who shall qualify as a candidate for any public elective office or who shall accept an appointive office or position of public employment for which compensation is paid by the City of New Orleans shall forfeit membership on the board.

The provisions of this paragraph shall not apply to ex officio board members nor to any board member who serves in such capacity by virtue of an elective office in city government.

Section 9-107. Quorum.

A majority of the existing membership of a board shall constitute a quorum. All actions taken by boards shall require the affirmative vote of the majority of the existing members thereof, provided that regulations may be adopted only upon the affirmative vote of two-thirds of the existing members thereof. The Mayor or, in the Mayor's absence, the Chief Administrative Officer shall not be counted as part of the existing membership of a board under this section, but if present, may be counted to establish a quorum or required vote.

CHAPTER 2

AMENDMENTS TO THE CHARTER

Section 9-201. Method of Amendment

Section 9-202. Calling of an Election

Section 9-203. Results of Election

CHAPTER 2

AMENDMENTS TO THE CHARTER

Section 9-201. Method of Amendment.

- (1) Except as provided in subparagraph 2 of this section, this Charter may be amended or replaced only by the affirmative vote of a majority of the qualified electors of the City voting upon such amendments or proposed Charters. Proposals to amend or replace this Charter by the affirmative vote of a majority of the qualified electors of the City voting thereon may originate only in the following manner:
 - (a) By ordinance of the Council.
 - (b) By petition of not less than ten percent or ten thousand, whichever is fewer, of the duly qualified registered voters of the City filed with the Council, setting forth the proposed amendments or substitute home rule Charter.

This method of amendment shall apply to the entirety or any portion of this Charter.

- (2) Except for the sections pertaining to the Mayor, the Administrative Office, and the Departments of Law, Police, Fire, Finance, and City Civil Service, amendments to Article IV of this Charter to rename or reassign powers or functions of departments or boards or to consolidate, subdivide, reorganize, or abolish departments or boards may be initiated by an executive order of the Mayor, which shall be published once in the official journal and submitted to the Council on or before the date of such publication for public review and comment. The Council shall hold a public hearing on the proposed amendment. The Council shall not alter the terms of the proposed amendment, but may vote to approve or disapprove the measure. If approved by a majority vote of the entire membership of the Council, the amendment shall become legally effective upon certification by the Clerk of the Council or at a later date if so specified in the executive order. If disapproved by a majority vote of the entire membership of the Council, the amendment shall not become legally effective. If the Council neither approves nor disapproves within sixty days of the date of publication of the executive order, the amendment shall become legally effective upon the expiration of such sixty days or at a later date if so specified in the executive order. Any amendment thus adopted shall be

published promptly after its adoption in the official journal, and duly authenticated copies of the amendment shall be filed promptly by the City Attorney in the offices of the Secretary of State, the Recorder of Mortgages, and the Clerk of Council. This method of amendment may not be utilized during the last year of a term in office for the Mayor and members of the City Council.

Section 9-202. Calling of an Election.

- (1) Any ordinance of the Council providing for amendment of the Charter or a substitute charter shall provide that the ordinance be submitted to the electors of the City at the next primary or general election for members of Congress, Mayor of New Orleans, or Governor of Louisiana to be held in the City, provided that the date of such election is not less than ninety days after the effective date of such ordinance, or if the public interest so requires, at a special election called for that purpose, the date of which shall be fixed at not less than ninety days after the effective date of such ordinance.
- (2) Within sixty days of the receipt of a petition proposing an amendment to the Charter or a substitute charter, the Council shall provide by ordinance that the proposed amendment or substitute charter shall be published at length in the official journal not less than sixty days prior to the election, and shall be submitted to the electors of the City at the first available election for members of Congress, Mayor of New Orleans, or Governor of Louisiana, if the date of such election is not less than ninety days after the effective date of such ordinance, or when the petition so demands, at a special election called for the purpose, the date of which shall be held on the first available election date not less than ninety days after the effective date of such ordinance.

Section 9-203. Results of Elections.

- (1) Any amendment to the Charter or substitute charter approved by a majority of the electors of the City voting on same shall become effective at the time and under the conditions fixed in such amendment or substitute charter, but not until duly authenticated copies thereof have been filed by the City Attorney within thirty days after said election in the offices of the Secretary of State and Recorder of Mortgages for the Parish of Orleans, provided that no substitute charter or amendment abolishing any elective office, reducing the remuneration, or shortening the term thereof, shall become effective until after the expiration of the current term of the incumbent officials elected to such office.

- (2) The City Attorney shall file authenticated copies of approval Charter amendments as required herein within thirty days after the election at which the amendments were approved or within the time period required by applicable state or municipal law if such time period is less than thirty days. The City Attorney shall also cause to be published in the official journal the full text of any amendment approved pursuant to the provisions of this Charter.

CHAPTER 3

MISCELLANEOUS PROVISIONS

Section 9-301. Title to Property

Section 9-302. Leases and Concessions

Section 9-303. Facsimile Signatures

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Section 9-312. Severability Clause

Section 9-313. Rejection of Bids

Section 9-314. Cooperative Endeavors

CHAPTER 3

MISCELLANEOUS PROVISIONS

Section 9-301. Title to Property.

- (1) All public property held by the City of New Orleans or by any officer, department or board of the City of New Orleans at the effective date of this charter or by any association or corporation performing municipal functions or receiving an appropriation from the general fund at the effective date of this charter shall be the property of the City.
- (2) Title to all property acquired under this charter by any officer, department or board shall be vested in the City.

Section 9-302. Leases and Concessions.

No lease or concession shall be granted to any corporation in which one or more City officers, employees, or board members hold or control the majority financial interest.

Section 9-303. Facsimile Signatures.

Whenever any person is required to sign negotiable instruments or multiple bonds, the signature may be a facsimile.

Section 9-304. Annual Reports.

- (1) Not later than sixty days after the close of the fiscal year, each office, department or board shall make an annual written report of its activities to the Chief Administrative Officer in such form and under such rules as may be prescribed by the Chief Administrative Officer.
- (2) Not later than one hundred twenty days after the close of the fiscal year, the Chief Administrative Officer shall make an annual written report to the Mayor concerning the activities of all offices, departments and boards, and the Mayor shall then transmit a copy thereof to the Council.

- (3) A copy of all annual report required under this Section shall be filed in the archives of the City.

Section 9-305. Reconstitution of Government in Event of Disaster.

In case of public disaster resulting in the death or disability of the Mayor or the majority of the Council, the remaining members of the Council shall successively appoint a sufficient number of additional members to fill the vacancies therein which have been created. Such appointees shall to the extent practicable possess the qualifications required for original membership on the Council. The Council so constituted shall proceed to elect one of its members as Mayor if that office is vacant. The Council shall then fill the vacancy created by such election.

Section 9-306. Penalties for Violations.

- (1) The Council shall by ordinance provide for penalties for willful violation of any provisions of this charter and may provide for penalties for violations of ordinances, rules and regulations. The Council shall have authority to provide for imposition of the maximum fines and terms of imprisonment allowed by law for such violations. The Council may provide that in the event of violation of safety ordinances or regulations, each day's offense shall constitute a separate offense, and may provide for penalties to be imposed separately for each day of such offense.
- (2) The Council may by ordinance and in accordance with applicable state or municipal law provide for procedures, rules, or orders to facilitate enforcement of the provisions of this Charter, ordinances, rules or regulations or to complement the penalties established for violations of this Charter, ordinances, rules or regulations of the City of New Orleans.

Section 9-307. General and Specific Provisions.

To the extent that any specific provision contained in this Charter conflicts with any general provision, the specific provision shall prevail.

Section 9-308. Officials to Serve Until Successors are Elected.

Each elected official and each appointed official of the City shall serve until a successor has been elected or appointed and qualified.

Section 9-309. Prohibited Activities of Officers and Employees.

No officer or employee of the City shall have a financial interest in any contract with the City. For the purposes of this section, "contract" shall mean a remunerative contract to provide goods or services to the City or for public work and shall not include a contract with the City which a city officer or employee is required to execute in order to receive state or federally funded grants, loans, or other public assistance, nor shall it include an incentive, benefit, or compensation approved by the Civil Service Commission.

Section 9-310. Limitation on Number of Casinos.

If authorized by law, permits may be issued by the City of New Orleans for the establishment of gambling casinos; provided that, unless it is otherwise provided by applicable and preemptive State law, no more than one land based gambling casino shall be permitted in the City of New Orleans. The casino shall be permitted only on land owned by the City of New Orleans in the area generally bounded by Poydras Street, Tchoupitoulas Street, Canal Street, and Convention Center Boulevard, known as the Rivergate site.

Section 9-311. Retention of Rights.

All remedies, processes, privileges, preferences and immunities enjoyed by the City of New Orleans prior to the effective date of this Charter under the Constitution and statutes of this State for the protection, enforcement and collection of taxes, special assessments, and other rights shall continue to be available to the City.

Section 9-312. Severability Clause.

If any part of this Charter is for any reason declared unconstitutional or invalid, the other separable parts hereof shall not be affected thereby.

Section 9-313. Rejection of Bids.

In all sales or purchases of property the City may reserve the right to reject all bids.

Section 9-314. Cooperative Endeavors.

- (1) The City of New Orleans may enter into cooperative endeavors with the state or its political subdivisions or political corporations, with the United States or its agencies, or with any public or private association, corporation, or individual with regard to the procurement and development of immovable property, joint planning and implementation of public works, joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes.
- (2) In order to further these objectives, each department and board of City government shall prepare within sixty days following the first day of each calendar year a report to the Mayor regarding opportunities for coordination between the department or board and other entities as previously enumerated in this section. Within thirty days following the receipt of such reports, the Mayor shall direct such departments or boards as the Mayor deems appropriate to initiate discussions with certain specified entities relative to cooperative endeavor agreements. Each department or board so directed shall within sixty days thereafter report to the Mayor on the status of discussions regarding cooperative endeavor agreements. Copies of the Mayor's directives to initiate discussions and copies of the status reports from the departments or boards shall be provided to all members of the City Council and to the City Council Chief of Staff.
- (3) The Mayor and an authorized official of the other entity or entities shall sign each cooperative endeavor agreement thus negotiated. Any proposed cooperative endeavor agreement having a term greater than one year shall, prior to its execution by the Mayor, be published once in the official journal and submitted to the Council for approval, but not modification, by a majority of its entire membership.

CHAPTER 4

OFFICE OF INSPECTOR GENERAL; ETHICS

Section 9-401. Office of Inspector General

Section 9-402. Ethics

CHAPTER 4

OFFICE OF INSPECTOR GENERAL; ETHICS

Section 9-401. Office of Inspector General.

- (1) The Council shall by ordinance create an Office of Inspector General (OIG) and otherwise provide with respect thereto.
- (2) The OIG shall provide for a full-time program of investigation, audit, inspections, and performance review to provide increased accountability and oversight of entities of city government or entities receiving funds through the city, and to assist in improving agency operations and deterring and identifying, fraud, waste, abuse, and illegal acts. The OIG is specifically authorized to conduct audits of City entities. The OIG shall also provide for an Independent Police Monitor Division, charged with monitoring the operations of the New Orleans Police Department, particularly in the areas of civilian and internally-generated complaints, internal investigations, discipline, significant uses of force, and in custody deaths.
- (3) The OIG, in conjunction with the Ethics Review Board, shall receive an annual appropriation from the Council in an amount not less than .75% (three-quarters of one percent) of the General Fund operating budget, adopted pursuant to Section 3-115(2), which individual appropriation may not be vetoed by the Mayor, notwithstanding the Mayor's authority pursuant to Section 3-113(4) to disapprove or reduce any item or items of appropriation, and also notwithstanding the Mayor's authority pursuant to Section 3-113(2) to disapprove any ordinance in its entirety. The Council may by ordinance, adopted by unanimous vote of a quorum, provide for deviation from this percentage in cases of natural disaster or other extreme circumstances. Of the budget percentage specified in this paragraph, an amount shall be allocated for the operation of the Ethics Review Board adequate to implement its functions efficiently and effectively.
- (4) The OIG may retain special counsel notwithstanding the provisions of Section 4-403 of this Charter.

Section 9-402. Ethics.

- (1) Prior to July 1, 1996, the Council shall by ordinance establish an Ethics Review Board and shall authorize it to enforce the provisions of the Code

of Ethics. Six members of the Board, all of whom are domiciled in and electors of the City, shall be appointed by the Mayor from lists of three nominees each submitted by the presidents or chancellors of the public and private universities located within the City of New Orleans, and one additional member shall be appointed by the Mayor, all appointments subject to approval by a majority of the members of the City council. No member of the ethics Review Board may hold any elective or appointed position with the city nor any other government or political party office. A vacancy on the Board shall be filled in the same manner as the original appointment. A member of the Board may be removed by the Mayor only for cause in accordance with the procedures established in Section 9-104 of the Charter and by the council in accordance with the procedures and for the reasons established in Section 3-125 of this Charter. The City Council shall authorize the Ethics Review Board to establish additional recommendations for the code of Ethics, to issue advisory opinions, to promulgate rules regarding the interpretation and enforcement of the Code of Ethics, to refer cases for investigation on referral or complaint, to retain counsel, and to impose fines.

- (2) Prior to December 31, 1996, the City Council, upon recommendation from the Ethics Review Board, shall by ordinance establish ethical rules governing the conduct of City employees, elected officials, contractors, and other persons who are the recipients of public funds, who are engaged in the performance of a governmental function, or who are in a position to influence the conduct of City employees or officials. The Code of Ethics shall incorporate by reference and adopt the provisions of the Louisiana Code of Governmental Ethics and shall provide for such other, more stringent provisions as the Council may deem appropriate. The Code of Ethics shall prohibit the Ethics Review Board from hearing any alleged violation that constitutes a violation of the State Code of Governmental Ethics if the Ethics Review Board ascertains that the entity designated by the State to enforce said State Code has considered or is considering the alleged violation.
- (3) Once adopted, the ordinances referenced in this section may be amended only by an ordinance receiving a two-thirds favorable vote of the entire membership of the Council.

CHAPTER 5

MINIMUM WAGE

Section 9-501. Purpose

Section 9-502. Definitions

Section 9-503. Minimum Wage

Section 9-504. Increase Not Precluded

Section 9-505. Enforcement

Section 9-506. Severability

Section 9-507. Effective Date

CHAPTER 5

MINIMUM WAGE

*Annotation: The Louisiana Supreme Court ruled in the case entitled New Orleans Campaign for a Living Wage v. The City of New Orleans, 02-0991 (La. 9/2/02) 825 So. 2d 1098, that "(1) [the] statute prohibiting local governmental subdivisions from establishing [a] minimum wage rate was [a] legitimate exercise of state's police power, and (2) [the] city's minimum wage law abridged [the] police power of [the] state and, therefore, was unconstitutional." Thus, while adopted by a vote of the people at an election held February 2, 2002, this Chapter of the Home Rule Charter has never taken effect.

Section 9-501. Purpose.

This Chapter is intended to provide for a minimum wage to be paid to employees who work in the City of New Orleans that will make it reasonably possible for them to earn a sufficient income to afford the basic necessities of food and shelter. This Chapter is intended to follow the scheme for calculating wages paid for the different types of employees as set forth in the Fair Labor Standards Act of 1938, 29 U. S. C. 201 et seq. (The "Act"). The minimum wage provided in Section 9-503 herein exceeds the minimum wage provided in the current Act because the minimum wage provided in the current Act is insufficient to provide a living wage under conditions existing in the City of New Orleans.

Section 9-502. Definitions.

- (1) "Employer" includes a person, partnership, joint venture, association corporation, company, trust or any organized group of persons acting directly or indirectly in the interest of an employer in relation to an employee performing work in the City of New Orleans, Louisiana.
- (2) "Employee" includes an individual employed and performing work in the City of New Orleans for or on behalf of an employer, and neither: (a) excluded from the definition of "employee" as provided in subsections (e)(1), (2), and (4) of Section 3 of the Act; (b) exempted from the minimum wage under subsections (a), (d), and (g) of Section 13 of the Act; (c) employed at a reduced wage in compliance with the provisions of Section 14 of the Act and/or

pursuant to a valid permit or certificate issued under authority of Section 14 of the Act; (d) a state or city civil service employee whose wages are regulated by a civil service commission; nor (e) employed on any public works contract governed by the Louisiana Public Bid Law.

- (3) "Wage" paid to any employee shall include compensation paid to such employee in the form of legal tender of the United States, checks on banks convertible into cash on demand and shall include the reasonable cost to the employer of furnishing such employees with board, lodging or other facilities, if such board, lodging or other facilities are customarily furnished by such employer to his/her employees, provided that the cost of board, lodging or other facilities shall not be included as part of the wage paid to any employee (a) if it is primarily for the benefit or convenience of the employer or (b) to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee. In determining the wage of a tipped employee, the amount paid such employee by his/her employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of fifty (50) percent of the minimum wage provided in Section 9-503, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (a) such employee has been informed by the employer of the provisions of this subsection, and (b) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.
- (4) "Tipped Employee" means any employee engaged in an occupation in which s/he customarily and regularly receives more than \$100 per month in tips.

Section 9-503. Minimum Wage.

An employer shall pay to each employee a wage at an hourly rate not less than six dollars fifteen cents (\$6.15) or one dollar (\$1.00) greater than the prevailing federal minimum wage, whichever is greater.

Section 9-504. Increase Not Precluded.

- (1) Nothing in this Chapter shall preclude the City Council of the City of New Orleans from increasing the minimum wage provided in Section 9-503 by ordinance.
- (2) This Chapter shall not be construed to diminish any right of employees to bargain collectively with their employer through representatives chosen by the employees to establish wages that exceed the minimum wage provided herein.
- (3) Nothing in this Chapter shall be construed to prohibit the City of New Orleans from requiring that prevailing wages be paid on public works contracts.

Section 9-505. Enforcement.

An employer who pays to an employee less than the minimum wage provided in Section 9-503 commits a misdemeanor punishable by a fine of up to \$200 for each day and each employee that wages are paid in violation thereof. Every employer employing any employees subject to this Chapter shall post and keep posted a notice stating the Chapter's minimum wage in conspicuous places in every establishment where such employees are employed.

Section 9-506. Severability.

If any part of this Chapter or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, such invalidity shall not affect any other provision or application of this Chapter which can be given effect without the invalid provision or application.

Section 9-507. Effective Date.

This amendment to the Charter shall be effective ninety (90) days after approval by a majority of the electors of the City voting on the same.

ARTICLE X

SCHEDULE

Section 10-101. Purpose of Article

Section 10-102. Agencies Abolished

Section 10-103. Ordinances, Resolutions and Motions

Section 10-104. Inconsistent Provisions of Ordinances and Laws

Section 10-105. Lawful Obligations of the City

Section 10-106. Pending Proceedings

Section 10-107. Effect of Ordinances

Section 10-108. Previous Charters and Laws Superseded

Section 10-109. Gender of Words

Section 10-110. Sectional Headings

Section 10-111. Records and Equipment

Section 10-112. Assignment of Employees

Section 10-113. Status of Present Employees

Section 10-114. Retirement Rights

Section 10-115. Implementation of this Charter

Section 10-116. Effective Dates

Section 10-117. Wards

Section 10-118. Municipal Districts

Section 10-119. Status of Employees at Effective Date of Article VIII

Section 10-120. Application of Laws

Section 10-121. Transitional Provisions

ARTICLE X

SCHEDULE

Section 10-101. Purpose of Article.

The purpose of this Article is to carry this Charter into complete operation and to insure that no inconvenience may arise from the adoption thereof.

Section 10-102. Agencies Abolished.

- (1) All officers, departments, boards, commissions and committees, including all bureaus, divisions, sections, units or other organizational units heretofore performing functions in The City of New Orleans are hereby abolished, except those required to be continued by provisions of the Constitution, general laws, contracts and donations, and all such shall continue to exist only for such time as may be required by any such provision.
- (2) The New Orleans Railroad Terminal Board shall have the duties and powers assigned to it by ordinances and contracts of the City, and shall be continued until its obligations have been completely discharged. The Board shall have the right to employ its own counsel.
- (3) Whenever, under the provisions of this Charter, a department, board, or agency is eliminated by merger or otherwise, references herein to said department, board, or agency shall be construed to refer to the department, board, or agency that assumes the respective duties or functions previously performed by the department, board, or agency which has been eliminated.

Section 10-103. Ordinances, Resolutions and Motions.

All ordinances, resolutions and motions of the city of New Orleans and all orders, rules and regulations made by any officer, department, board or other unit thereof not inconsistent with this charter shall remain in full force and effect until altered or repealed by the proper authority or until they expire by their own limitation.

Section 10-104. Inconsistent Provisions of Ordinances and Laws.

The provisions of all ordinances and other laws which are inconsistent with this Charter shall be superseded by the provisions of this charter at its effective date, except that ordinances that are inconsistent with those provisions of this Charter that require action by the Council to make them effective shall remain in full force until such action is had.

Section 10-105. Lawful Obligations of the City.

All lawful obligations of The City of New Orleans existing on the effective date of this Charter and all fines, taxes, penalties, forfeitures, obligations and rights, due, owing or accruing to the City of New Orleans, and all writs, prosecutions, actions and proceedings by or against The City of New Orleans shall continue and remain unaffected by the adoption of this charter. All prosecutions instituted prior to the effective date of this Charter and all offenses committed prior thereto may be prosecuted as theretofore.

Section 10-106. Pending Proceedings.

All petitions, hearings and other proceedings pending before any officer, department, board or other unit abolished by this Charter and all investigations begun by such officer, department, board or other unit and not completed at the effective date of this Charter may be completed by such officer, department, board or other unit as may be designated by the Mayor.

Section 10-107. Effect of Ordinances.

- (1) All ordinances of the City of New Orleans in force at the effective date of this Charter affecting, concerning or relating to any official, board, or public body of The City of New Orleans, the title, power, functions or duties of which are changed by this Charter shall, when not inconsistent with any of the provisions hereof, be construed as referring and applying to the official, board, or public body in which like powers are vested by this Charter.
- (2) All rights, powers, functions and duties vested in any officer of The City of New Orleans or any person or body acting for it shall be vested in and exercised by the officer, person or body to whom or to which similar rights, powers, functions and duties are assigned by this Charter.
- (3) References in any law or ordinance to officers of the City as heretofore

constituted shall be construed to apply to such officer or person in the City government as organized under this Charter corresponding nearest to the officer referred to in such law or ordinance; and, in the event no such person or officer is provided for under this Charter, then the Council shall select an officer or person in the City government to serve in lieu of such other officer with like powers and effects.

Section 10-108. Previous Charters and Laws Superseded.

This Charter shall supersede all previous charters and all amendments thereto, except as herein otherwise provided.

Section 10-109. Gender of Words.

Whenever in this Charter a word is used with reference to a nature person, denoting the person's gender, it shall apply to both sexes, unless otherwise expressly provided.

Section 10-110. Sectional Headings.

No title or subtitle, heading or subheading or marginal note, printed in or with this Charter, shall be considered or construed to be part of this Charter; they have been inserted only for convenience in reference.

Section 10-111. Records and Equipment.

All books, papers, maps, charts, plans, and other equipment appertaining to any office, department, board or other unit of The City of New Orleans abolished by this Charter shall be delivered to the head of the office, department, board or other unit of the City to which they rightfully appertain.

Section 10-112. Assignment of Employees.

All employees of The City of New Orleans shall, at the effective date of this Charter, be temporarily assigned by the Mayor or by the Chief Administrative Officer to the proper office, department or board until permanently reassigned or dismissed.

Section 10-113. Status of Present Employees.

- (1) Permanent employees in the classified service at the effective date of this Charter shall be continued in their respective classifications without further examination, until lawfully separated therefrom.
- (2) Employees of the City in the unclassified service whose positions may become classified shall be continued in their positions pending compliance with the City Civil Service law, rules and regulations.

Section 10-114. Retirement Rights.

No pension or retirement rights shall be affected by the adoption of this Charter, and services of employees shall be deemed continuous.

Section 10-115. Implementation of this Charter.

- (1) The Council shall as promptly as possible pass any ordinances which may be necessary to carry into effect the provisions of this Charter.
- (2) To facilitate the transition to a cash basis of estimating and budgeting, the Council may estimate and budget \$1,500,000 in accrued receipts for 1955, \$1,000,000 in accrued receipts for 1956, and \$500,000 in accrued receipts for 1957. Any estimated accrued receipts included in the budget of revenues of each of these years shall be deducted from the estimate of cash receipts for the next succeeding year. The provisions of this Charter requiring receipts of the general Fund of the City of New Orleans shall be estimated only upon the basis of the cash to be received therefrom within the fiscal year that shall become fully effective on January 1, 1958.

Section 10-116. Effective Dates.

- (1) The reorganization of the form of government effected by this Charter shall occur on May 1, 1954, and the first officials elected pursuant to this Charter shall take office on the date.
- (2) The provisions of this charter relating to the qualification of candidates for official positions and for the conducting of elections shall become effective on July 1, 1953.

Section 10-117. Wards.

The wards of The City of New Orleans shall remain as wards of the City until lawfully changed.

Section 10-118. Municipal Districts.

The municipal districts of the City of New Orleans shall remain as municipal districts of the City until lawfully changed.

Section 10-119. Status of Employees at Effective Date of Article VIII.

- (1) Permanent employees in the classified service at the effective date of Article VIII of this Charter, shall be continued in their respective classifications without further examinations, until lawfully separated therefrom.
- (2) Employees of the City and employees of any other governmental agency who become classified employees of the City at or after the effective date of Article VIII of this Charter and who were not appointed after civil service test and certification, shall be continued in their respective positions provided that within one year after having become classified employees they shall pass a qualifying test prescribed by the Department of Civil Service. Those who fail to so qualify shall be dismissed from their positions within thirty days after the establishment of an eligibility list for their respective positions. Nothing herein shall preclude the reclassification or reallocation as provided by the civil service rules and regulations of any position held by any such employee.

Section 10-120. Application of Laws.

As used in this Charter, the terms "by law" and "municipal law" are defined as follows:

- (1) "by law" means by applicable federal, state, or municipal law; and,
- (2) "municipal law" means this Charter or ordinances adopted pursuant to this Charter.

Section 10-121. Transitional Provisions.

Amendments to this Charter approved at an election held on November 18, 1995 shall become effective on January 1, 1996.